

NO: FST CV 15 5015035S : SUPERIOR COURT
GIRL DOE, PPA MOTHER DOE, ET AL. : J.D. OF STAMFORD
v. : AT STAMFORD
TOWN OF WILTON, ET AL : MARCH 2, 2017

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

I. BACKGROUND FACTS

The above-captioned matter arises from an incident occurring at Wilton Preschool on December 21, 2012. The minor plaintiff, Girl Doe, by and through her parents and next friends, Mother Doe and Father Doe, as well as Mother Doe and Father Doe individually, (hereinafter “plaintiffs”) commenced this action by Writ, Summons, and six-count Complaint dated October 13, 2015. The complaint alleges that the Wilton Board of Education (hereinafter “BOE”) negligently injured Girl Doe and is liable for negligent infliction of emotional distress as to Mother and Father Doe; the plaintiffs also allege that the Town of Wilton is legally responsible for any damages assessed against the BOE.

The facts relevant to this Court’s resolution of the instant motion are as follows:

Girl Doe started attending preschool at Children’s Day School in Wilton, in September of 2011. **See, Deposition of Mother Doe, at 14:22—15:12; 18:1—18:7 (attached as Exhibit A).** Mother Doe recalls that when she started at Children’s Day School, Girl Doe was three years old and just beginning her toilet training. **See, Deposition of Mother Doe, at 15:5—15:8; 18:8—18:19 (Exhibit A).** When she

began attending Wilton Preschool in September of 2012, Girl Doe was fully toilet trained and did not require any assistance when going to the bathroom. **See, Deposition of Mother Doe, at 18:20—19:9 (Exhibit A).**

Girl Doe had been referred to the Wilton Preschool by another preschool, and after she was diagnosed as being eligible for special services. **See, First Deposition of Fred Rapczynski, at 58:21—59:2 (attached as Exhibit B).** She received special education services from a team of clinicians and a teacher certified in special education while she attended Wilton Preschool. **See, First Deposition of Fred Rapczynski, at 68:18—69:7 (Exhibit B).**

Girl Doe had a history of being untruthful. Marianne Neville was Girl Doe's teacher during the relevant time period. **See, First Deposition of Fred Rapczynski, at 55:10:55:13 (Exhibit B).** She had previously reported to Dr. Fred Rapczynski that "you couldn't always count on what [Girl Doe] said" to be truthful. **See, First Deposition of Fred Rapczynski, at 59:3—60:7 (Exhibit B).**

For example, in November or December of 2012, Girl Doe reported to her parents that a boy in her class was bothering her and had asked her to take her clothes off and lay down together. **See, First Deposition of Fred Rapczynski, at 49:23—50:11; 52:15—52:18 (Exhibit B).** Mother Doe recalls Girl Doe had been playing with naked Barbie dolls and said to her mother "this is how mommy's and daddy's lying down together"; when asked where she heard that, she told Mother Doe that a boy in her class told her "this is what adults do" and had asked her to do the same with him. **See, Deposition of Mother Doe, at 113:10—114:7 (Exhibit A).**

Mother Doe had also reported to Dr. Rapczynski that the boy in question hit another girl with a block. **See, Defendants' Exhibit 6 (attached as Exhibit C), introduced at the Deposition of Mother Doe; Deposition of Mother Doe, at 115:14—116:7.**

Dr. Rapczynski's investigation revealed that Girl Doe's statements were not truthful. **See, First Deposition of Fred Rapczynski, at 52:19—53:14 (Exhibit B).**

Ms. Neville, Girl Doe's teacher, also believed those statements to be inaccurate, based on her observations of the student's conduct in her classroom. **See, First Deposition of Fred Rapczynski, at 55:6—56:3 (Exhibit B).** Dr. Rapczynski concluded that Girl Doe had fabricated her story about the boy student. **See, First Deposition of Fred Rapczynski, at 56:19—57:12 (Exhibit B).**

Mother Doe also told Dr. Rapczynski that she struggled to manage her daughter. At one point, she threatened Girl Doe with the police if she would not behave, which was reported to Dr. Rapczynski who discussed that with the Doe's several times. **See, First Deposition of Fred Rapczynski, at 50:13—50:21; 58:10—58:14; 60:19—62:25; 63:4—15 (Exhibit B).** **See also, Deposition of Mother Doe, at 96:18—98:4 (Exhibit A).**

Ms. Neville had also told Dr. Rapczynski that Girl Doe sometimes behaved in a manner that she considered "provocative" or "flirtatious." **See, First Deposition of Fred Rapczynski, at 66:2—66:16 (Exhibit B).** As a result of that and the claim of inappropriate statements from the boy in her class, Dr. Rapczynski spoke to Mother and Father Doe about how she may have acquired "adult" knowledge. **See, First Deposition of Fred Rapczynski, at 67:2—67:25 (Exhibit B).** These conversations

occurred in November and December of 2012, *prior* to any complaint about Mr. Von Kohorn. **See, First Deposition of Fred Rapczynski, at 49:13—51:17 (Exhibit B).**

On December 21, 2012 – the last day of school before winter break – Girl Doe came home with irritation on her genitals. **See, Deposition of Mother Doe, at 38:6—38:10; 29:25—31:9 (Exhibit A).** When asked what had happened, she told her mother that “Mr. Eric wiped me too hard.” **See, Deposition of Mother Doe, at 31:2—31:9 (Exhibit A).** No photograph was taken of the area. **See, Deposition of Mother Doe, at 34:4—34:10 (Exhibit A).** Mother Doe told Father Doe, who was working from home that day, what had transpired. **See, Deposition of Mother Doe, at 34:23—36:9 (Exhibit A).** Father Doe called the school but did not make contact with anyone. **See, Deposition of Mother Doe, at 36:23—37:18 (Exhibit A); Deposition of Father Doe, at 13:17—14:10 (attached as Exhibit D).** Father Doe did not speak to anyone at the Wilton Preschool over the winter break. **See, Deposition of Father Doe, at 14:18—15:13 (Exhibit D).**

The Doe did not bring Girl Doe to the pediatrician to be examined. **See, Deposition of Mother Doe, at 60:24—61:8 (Exhibit A).** They did not call the police. **See, Deposition of Mother Doe, at 60:14—60:23 (Exhibit A).** Although Mother Doe testified that she did not think Girl Doe was lying, she thought there might be a “mistake” or that Girl Doe could have been “confused.” **See, Deposition of Mother Doe, at 59:21—60:13 (Exhibit A).**

On January 3, 2013, Father Doe spoke to Dr. Rapczynski over the phone about the incident. **See, First Deposition of Fred Rapczynski, at 47:7—48:4 (Exhibit B).**

Prior to the complaint about Mr. Von Kohorn, Father Doe had dropped Girl Doe off at preschool and observed that she did not want Mr. Von Kohorn to help her out of the car. **See, First Deposition of Fred Rapczynski, at 48:19—49:10 (Exhibit B).** Father Doe also recalled that Girl Doe told him Mr. Von Kohorn had hit her friend in the head with a doll. **See, Deposition of Father Doe, at 20:10—21:4 (Exhibit D).** Both of these claims were communicated to Dr. Rapczynski. **See, Defendant's Exhibit 1 (Exhibit E), introduced at the Deposition of Mother Doe.**

Following this report from Father Doe, Dr. Rapczynski began investigating the allegation. He focused initially on whether there had been any opportunity for Mr. Von Kohorn to touch Girl Doe, **see, First Deposition of Fred Rapczynski, at 71:6—71:18 (Exhibit B)**, because at that time, Mr. Von Kohorn was assigned to a different classroom than the one wherein Girl Doe was a student. **See, First Deposition of Fred Rapczynski, at 70:23—71:5; 72:7—72:23 (Exhibit B).** As a result of his investigation, Dr. Rapczynski was unable to find an opportunity for Mr. Von Kohorn to have touched Girl Doe. **See, First Deposition of Fred Rapczynski, at 73:24—74:16 (Exhibit B).**

Dr. Rapczynski reported his finding – that there was no opportunity for interaction between Mr. Von Kohorn and Girl Doe on December 21, 2012 – to Father Doe on January 4, 2013. **See, First Deposition of Fred Rapczynski, at 75:10—76:7 (Exhibit B); Deposition of Father Doe, at 30:22—31:4 (Exhibit D).** Even though Dr. Rapczynski did not have any reason to suspect that child abuse had occurred, he made a report to the State of Connecticut Department of Children and Families

(hereinafter “DCF”) on January 7, 2013 with the complaint about Mr. Von Kohorn and the results of his interviews with the staff. **See, First Deposition of Fred Rapczynski, at 75:24—76:7; 82:20—83:15 (Exhibit B); Plaintiff’s Exhibit 2 (Exhibit F) introduced at the First Deposition of Fred Rapczynski.** He made his report both by telephone and by written report. **See, First Deposition of Fred Rapczynski , at 83:19—84:6 (Exhibit B).** DCF acknowledged receipt of Dr. Rapczynski’s report on January 8, 2013, and concluded that the complaint did not meet the statutory definition of abuse/neglect/at risk. **See, Plaintiff’s Exhibit 2a (attached as Exhibit G), introduced at the First Deposition of Fred Rapczynski; First Deposition of Fred Rapczynski, at 85:20—86:4 (Exhibit B).** Dr. Rapczynski has no knowledge of whether DCF conducted their own investigation of the complaint. **See, First Deposition of Fred Rapczynski, at 84:24—85:13 (Exhibit B).**

At some time after the DCF report of January 7, 2013, Mother Doe spoke with Dr. Rapczynski and informed him that on the day of the alleged incident, she had told the preschool staff that Girl Doe needed to use the bathroom and Mr. Von Kohorn had escorted Girl Doe into the building. **See, Deposition of Mother Doe, at 38:18—39:18 (Exhibit A). First Deposition of Fred Rapczynski, at 87:2—88:16 (Exhibit B); Plaintiffs’ Exhibit 3 (attached as Exhibit H) introduced at First Deposition of Fred Rapczynski.**

In response to the additional information provided by Mother Doe, Dr. Rapczynski conducted additional investigation and concluded that there was a possibility that something had occurred. **See, First Deposition of Fred Rapczynski,**

at 89:1—89:11 (Exhibit B). He filed a second DCF report on January 8, 2013, again by way of both a written submission and a phone call. **See, First Deposition of Fred Rapczynski, at 89:1—89:19; 106:20—107:7 (Exhibit B); Plaintiffs’ Exhibit 3 (Exhibit H).**

DCF again sent a letter stating that it had determined that the complaint did not meet the statutory requirement. **See, Plaintiffs’ Exhibit 3a introduced at First Deposition of Fred Rapczynski (attached as Exhibit I); First Deposition of Fred Rapczynski, at 107:21—107:25 (Exhibit B).** Dr. Rapczynski has no knowledge of any investigation that DCF may have conducted. **See, First Deposition of Fred Rapczynski, at 107:8—107:16 (Exhibit B).**

As a consequence of the Doe’s complaint about Mr. Von Kohorn, Dr. Rapczynski ensured that the oral toileting policy was formalized in writing. **See, First Deposition of Fred Rapczynski, at 116:20—117:20 (Exhibit B).** He also ensured that, although Mr. Von Kohorn and Girl Doe were in different classrooms, **see, First Deposition of Fred Rapczynski, at 72:7—72:23 (Exhibit B),** in the future, Mr. Von Kohorn would not be assigned to Girl Doe’s classroom. **See, First Deposition of Fred Rapczynski, at 116:13—116:19 (Exhibit B).** Mr. Von Kohorn’s supervising teacher was also informed of the complaint against him, so that she could monitor him more closely. **See, First Deposition of Fred Rapczynski, at 113:25—114:7 (Exhibit B).** Dr. Rapczynski concluded that, despite Mr. Von Kohorn’s violation of the toileting policy, he did not pose a threat to any child. **See, First Deposition of Fred Rapczynski, at 138:6—138:19 (Exhibit B).**

In the middle of the following semester, fall of 2013, the Wilton Preschool staffing needs changed, and Dr. Rapczynski determined that he needed to assign Mr. Von Kohorn to assist a student in the same classroom as Girl Doe. **See, Second Deposition of Fred Rapczynski, at 230: 6—230:7 (attached as Exhibit J).** Dr. Rapczynski explained that Mr. Von Kohorn would have no direct responsibilities or interaction with Girl Doe and requested the permission of Mother and Father Doe to assign Mr. Von Kohorn to Girl Doe's classroom. **See, Second Deposition of Fred Rapczynski, at 230:8—230:14; 233:13—233:20 (Exhibit J).** Mother and Father Doe agreed. **See, Second Deposition of Fred Rapczynski, at 230:15—230:17 (Exhibit J); Deposition of Mother Doe, at 89:18—91:25 (Exhibit A).** In the months between January 2013 and fall of 2013, Mother and Father Doe had not reported any changes in Girl Doe's behavior that would support the complaint made about Mr. Von Kohorn. **See, Second Deposition of Fred Rapczynski, at 230:18—230:25 (Exhibit J).**

Girl Doe did not make any additional complaints about Mr. Von Kohorn when he was in her classroom in the fall 2013 semester. **See, Deposition of Father Doe, at 66:25—67:11 (Exhibit D).** Girl Doe is currently in second grade and at this time is not receiving special services. **See, Deposition of Mother Doe, at 80:5—80:11; 100:14—100:17 (Exhibit A).**

Additional facts may be set forth below where necessary.

II. LAW AND ARGUMENT

A. STANDARD OF REVIEW.

Practice Book § 17-49 provides that judgment shall be rendered “if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” “The motion for summary judgment is designed to eliminate the delay and expense of litigating an issue when there is no real issue to be tried.” Wilson v. New Haven, 213 Conn. 277, 279 (1989). A material fact is “one which will make a difference in the result of the case.” Barrett v. Southern Connecticut Gas Co., 172 Conn. 362, 378 (1977). The motion must be granted if “on the evidence viewed in the light most favorable to the nonmovant, the trier of fact could not reasonably reach any other conclusion” United Oil Co. v. Urban Redevelopment Commission, 158 Conn. 364, 380 (1969).

In opposing the motion for summary judgment, the adverse party must present some evidence showing the existence of a genuine issue of material fact. Farrell v. Farrell, 182 Conn. 34, 39 (1980). The opposing party must substantiate his adverse claim by presenting evidence that demonstrates the existence of a genuine issue of material fact; Rawlings v. New Haven, 206 Conn. 100, 104 (1988); together with the evidence disclosing the existence of such an issue. Burns v. Hartford Hospital, 192 Conn. 451, 455 (1984).

Practice Book § 17–45 provides in relevant part: “A motion for summary judgment shall be supported by such documents as may be appropriate, including but

not limited to affidavits, certified transcripts of testimony under oath, disclosures, written admissions and the like.”

The Appellate Court has held that Practice Book § 17–45 “contemplates that supporting documents to a motion for summary judgment be made under oath or be otherwise reliable ... [The] rules would be meaningless if they could be circumvented by filing [unauthenticated documents] in support of or in opposition to summary judgment.” (Internal quotation marks omitted.) New Haven v. Pantani, 89 Conn.App. 675, 678, 874 A.2d 849 (2005). Moreover, “[o]nly evidence that would be admissible at trial may be used to support or oppose a motion for summary judgment.” (Internal quotation marks omitted.) Great Country Bank v. Pastore, 241 Conn. 423, 436, 696 A.2d 1254 (1997).

“The issue of governmental immunity is simply a question of the existence of a duty of care, and [the Connecticut Supreme Court] has approved the practice of deciding the issue of governmental immunity as a matter of law.” Gordon v. Bridgeport Housing Authority, 208 Conn. 161, 170 (1988). “While it is the defendant’s burden to prove the defense of governmental immunity . . . it is the plaintiff’s burden to prove an exception to that defense.” Silano v. Board of Education of City of Bridgeport, Superior Court, judicial district of Fairfield, Docket No. 990367741 (April 7, 2011, *Levin, J.*)

B. THE PLAINTIFFS’ CLAIMS ARE BARRED BY THE DOCTRINE OF GOVERNMENTAL IMMUNITY.

As a preliminary matter, the plaintiffs have failed to allege any statute abrogating governmental immunity, and all counts of their Complaint sounding in

common-law negligence directed toward Board of Education and the Town should fail on this basis. Williams v. New Haven, 243 Conn. 763, 766-67 (1998). Even if the plaintiffs allege such a statute, however, the doctrine of governmental immunity operates to bar the negligence claims against the defendants set forth in all counts of the Complaint.

1. The Alleged Acts and Omissions Complained of Involve Public Discretionary Duties

The law governing the liability of a municipality for its negligence and that of its agents and employees in Connecticut is well settled.

General Statutes § 52-557n abandons the common law principle of municipal sovereign immunity and establishes the circumstances in which a municipality may be liable for damages One such circumstance is a negligent act or omission of a municipal officer acting within the scope of his or her employment or official duties. General Statutes § 52-557n (a)(1)(A). General Statutes § 52-557n(a)(2)(B), however, explicitly shields a municipality from liability for damages to person or property caused by the negligent acts or omissions which require the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law.

Doe v. Peterson, 279 Conn. 607, 614 (2006).

Indeed, the availability of governmental immunity as a defense depends on two factors: (1) whether the employee's action was public or private in nature; and (2) whether the employee was engaged in a discretionary or ministerial act. Soderlund v. Merrigan, 110 Conn.App. 389, 394-95 (2008). The doctrine applies to bar an action when a municipal employee's actions are public in nature and involve the use of discretion. Id.

Municipal officials are immunized from liability for negligence arising out of their discretionary acts in part because of the danger that a more expansive exposure to liability would cramp the exercise of official discretion beyond the limits desirable in our society ... Discretionary act immunity reflects a value judgment that-despite injury to a member of the public-the broader interest in having government officers and employees free to exercise judgment and discretion in their official functions, unhampered by fear of second-guessing and retaliatory lawsuits, outweighs the benefits to be had from imposing liability for that injury ... In contrast, municipal officers are not immune from liability for negligence arising out of their ministerial acts, defined as acts to be performed in a prescribed manner without the exercise of judgment or discretion ... This is because society has no analogous interest in permitting municipal officers to exercise judgment in the performance of ministerial acts ...”

Id. (citation omitted; internal quotation marks omitted.) The alleged acts and omissions in this case meet both of these criteria.

a. The Acts and Omissions Complained of Involve the Performance of a Public Duty

The first step in determining the applicability of the doctrine of governmental immunity is to ascertain whether the acts or omissions complained of involve the performance of a public or private duty. “[T]he determination of whether the act complained of constituted a ... governmental act is a matter of law for the court to decide.” Redfearn v. Ennis, 28 Conn.App. 398, 401 (1992).

In the instant matter, the alleged duties of the defendant BOE pertain to the supervision of public school students and the supervision of public school employees while on the school premises. The record evidence establishes, without issue, that the Girl Doe and Mr. Von Kohorn were on public school grounds, during regular school

hours, when the alleged incident occurred. Connecticut Superior Courts have held that the duty to supervise students and employees are public duties as they affects students generally. See Dube v. Bye, Superior Court, judicial district of New Haven at New Haven, Docket No. 418259 (December 13, 1999; *Zoarksi, J.*) (26 Conn.L.Rptr. 290; Viens v. Graner, Superior Court, judicial district of New London at New London, Docket No. 5243113 (June 28, 1993; *Teller, J.*) (9 Conn.L.Rptr. 306). The Supreme Court has long held that the supervision and discipline of public employees is a public duty. Stiebitz v. Mahoney, 144 Conn. 443, 446 (1957). Similarly, here, the alleged acts and omissions concern supervision at the Wilton Preschool and, therefore, are public duties as a matter of law.

b. The Acts and Omissions Complained of are Discretionary

The next step in determining the applicability of the doctrine of governmental immunity is to ascertain whether the alleged negligent acts are discretionary or ministerial in nature. “The hallmark of a discretionary act is that it requires the exercise of judgment. . . . In contrast, [m]inisterial refers to a duty which is to be performed in a prescribed manner without the exercise of judgment or discretion.” Violano v. Fernandez, 280 Conn. 310, 318 (2006).

“[A]lthough the general rule is that a determination as to whether the actions or omissions of a municipality are discretionary or ministerial is a question of fact for the jury, there are cases where it is apparent from the complaint.” Durrant v. Board of Education, 284 Conn. 91, 91 n. 5 (2007) (internal quotation marks omitted.)

“Determining whether it is apparent on the face of the complaint that the acts

complained of are discretionary requires an examination of the nature of the alleged acts or omissions.” Violano v. Fernandez, *supra*, 280 Conn. 322. Further, “[a]bsent evidence that a policy or directive existed requiring the defendant to perform a particular duty, the conclusion that the allegedly negligent acts were discretionary in nature as a matter of law is proper.” Martel v. Metropolitan District Commission, 275 Conn. 38, 50-51 (2005).

It is well settled in Connecticut that the duty to supervise school children is a discretionary governmental duty, rather than a ministerial duty. See Heigl v. Board of Education, 218 Conn. 1, 8 (1991); Doe v. Board of Education, 76 Conn.App. 296, 300 (2003). Local boards of education act as agents of a municipality on issues involving the supervision of school children and the maintenance and operation of schools and school buildings. Purzycki v. Town of Fairfield, 244 Conn. 101, 112 (1998).

In addition, the Supreme Court has also held that supervision of public school employees is also a discretionary act, which is in keeping with the law of several other states. Strycharz v. Cady, 323 Conn. 548, 567–69 (2016).

Likewise, while there is no controlling authority directly on point as to the duty of BOE employees to investigate allegations of child abuse, by way of analogy, Connecticut courts uniformly hold that investigations performed by town officials are discretionary acts to which governmental immunity attaches. Coley v. City of Hartford, 312 Conn. 150, 164–65 (2014) (holding that a police officer’s duty to remain at the scene of a domestic violence complaint is discretionary and protected by governmental immunity); Doe v. Petersen, 279 Conn. 607, 611–12 (2006) (court

granting summary judgment in favor of the Town on the issue of governmental immunity where the town failed to investigate or respond to a town employee's report that another employee had assaulted her); Bonington v. Town of Westport, 297 Conn. 297, 300, 311 (2010) (town's negligence in investigating plaintiffs' claims of zoning violations by their neighbor constituted a discretionary act protected by the doctrine of governmental immunity).

"It is indisputable ... that municipalities, by providing public education, are engaged in a governmental duty." Couture v. Board of Education, 6 Conn.App. 309, 312 (1986). Duties to maintain, inspect, and repair school property, to provide safe premises for school activities, and to supervise such activities clearly affect the general public, and do not involve special or unique duties owed to a particular individual. Id. at 312-13; Heigl v. Board of Education, supra, 218 Conn. 8.

The plaintiffs allege that the agents of the BOE had a nondiscretionary legal obligation to enforce the Wilton Preschool toileting policy, report suspected child abuse pursuant to Conn. Gen. Stat. § 17a-101b, and to communicate about allegations of suspected child abuse or neglect in a specific manner. **See, Complaint, Count One, at ¶¶ 11-12, 21-22, 27-28.** There is no evidence that would be admissible at trial supporting the claim that any BOE agent or employee breached their obligation to enforce the Wilton Preschool toileting policy.

With regard to the allegations contained in ¶¶ 21-23 of the Complaint, Count One, that Dr. Rapczynski did not act in accordance with his duties as a court-mandated reporter under Conn. Gen. Stat. § 17a-101b, there is likewise no evidence

that he violated any such duty. The statute requires mandated reporters to report suspected child abuse when he or she “has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm.” Conn. Gen. Stat. § 17a-101b. Dr. Rapczynski’s uncontroverted testimony establishes that upon receiving the Doe’s initial complaint on January 3, 2013, he did not have reasonable cause to suspect that any child abuse had occurred. **See, First Deposition of Fred Rapczynski, at 71:6—71:18; 76:14—76:25 (Exhibit B).** The determination of whether a court-mandated reporter has reasonable cause to suspect that child abuse or neglect has occurred is a question within the discretion of that reporter. **See, Affidavit of Fred Rapczynski, at ¶ 14 (attached as Exhibit K).** Furthermore, Conn. Gen. Stat. §17a-101e provides immunity from civil liability for “any person, institution or agency which, in good faith, makes, or in good faith does not make, the report pursuant to sections 17a-101a to 17a-101d, inclusive... provided such person did not perpetrate or cause such abuse or neglect.”

Thus, there exists no genuine issue of material fact that the alleged acts and omissions complained of involve discretionary acts to which governmental immunity and immunity under Conn. Gen. Stat. § 17a-101e apply, barring the plaintiffs’ claims sounding in negligence.

2. No Exceptions To Governmental Immunity Apply

As set forth above, General Statutes § 52-557n codifies and limits the common law regarding governmental immunity and municipal liability. Sanzone v. Board of

Police Commissioners, 219 Conn. 179, 192 (1991). Section 52-557n(a)(1) lists three exceptions to a municipality's immunity:

(A) The negligent acts or omissions of such political subdivision or any employee, officer or agent thereof acting within the scope of his employment or official duties; (B) negligence in the performance of functions from which the political subdivision derives a special corporate profit or pecuniary benefit; and (C) acts of the political subdivision which constitute the creation or participation in the creation of a nuisance

As detailed above, the alleged acts and/or omissions alleged in the plaintiffs' Amended Complaint all involve discretionary, rather than ministerial acts, and as such, the exception set forth in § 52-557n(a)(1)(A) above does not apply to this case. Further, the other exceptions set forth in § 52-557n(a)(1)(B) and (C) do not apply.

Our Supreme Court in Grady v. Town of Somers, 294 Conn. 324 (2009), has held that the recognized exceptions to municipal employee immunity¹ also apply to claims directly (and solely) against a municipality, overruling Pane v. Danbury, 267 Conn. 669 (2004). The only exception to municipal employee immunity of relevance in this case that the plaintiffs have pleaded is the "identifiable victim imminent harm" exception. The Connecticut Supreme Court in Violano v. Fernandez, supra, set forth the test for the "identifiable person imminent harm exception" as follows:

The imminent harm exception to discretionary act immunity applies when the circumstances make it apparent to the public officer that his or her failure to act would be likely to subject an identifiable person to imminent harm. . . . By its own terms, this test requires three things: (1) an imminent

¹ The three exceptions to employee discretionary acts are: the "identifiable person imminent harm" exception; where a specific statute imposes municipal liability for the failure to perform certain duties; and for malicious or wanton activity. Gordon v. Bridgeport Housing Authority, supra, 208 Conn. 161, 167 (1988).

harm; (2) an identifiable victim; and (3) a public official to whom it is apparent that his or her conduct is likely to subject that victim to imminent harm. . . . We have stated previously that this exception to the general rule of governmental immunity for employees engaged in discretionary activities has received very limited recognition in this state. . . . *If the plaintiffs fail to establish any one of the three prongs, this failure will be fatal to their claim that they come within the imminent harm exception. . . .*

Violano v. Fernandez, *supra*, 280 Conn. 329 (citations omitted, emphasis added, internal quotations omitted).

The question of whether a particular plaintiff comes within a cognizable class of foreseeable victims for purposes of this narrowly drawn exception to qualified immunity is a question of law for the courts. See Purzycki v. Fairfield, 244 Conn. 101, 108 (1998).

The plaintiffs allege that Girl Doe was an identifiable victim only at the time when Mr. Von Kohorn took her to the bathroom. **See, Complaint, Count One, at ¶ 13.** There is no evidence in that would be admissible at trial that any BOE agent or employee had any knowledge that Mr. Von Kohorn intended to take Girl Doe to the bathroom. It was therefore not apparent to any BOE employee that their conduct was likely to subject Girl Doe to harm, and this exception to governmental immunity is not available to the plaintiff, as specifically set forth below.

a. The Plaintiff was not an Identifiable Victim.

The identifiable victim exception to discretionary act immunity requires that there be “(1) an imminent harm; (2) an identifiable victim; and (3) a public official to whom it is apparent that his or her conduct is likely to subject that victim to that harm.

All three must be proven in order for the exception to apply.” Edgerton v. Town of Clinton, 311 Conn. 217, 230–31 (2014) (internal quotation marks and citations omitted).

The numerous cases addressing this exception establish that the issue of whether someone was exposed to an “imminent harm” is not decided until, and if, it is first concluded that the person has been identified to the defendants, is readily identifiable or is a member of a narrowly defined class. In this case, the Girl Doe was neither identified, readily identifiable or a member of a narrowly defined class of foreseeable victims.

i. The Plaintiff was neither Identified Nor Was the Harm Imminent.

“[T]he criteria of ‘identifiable person’ and ‘imminent harm’ must be evaluated with reference to each other. An allegedly identifiable person must be identifiable as a potential victim of a specific imminent harm. Likewise, the alleged imminent harm must be imminent in terms of its impact on a specific identifiable person.” Doe v. Petersen, 279 Conn. 607, 620–21 (2006). In expounding on the imminent harm element of the exception, the Supreme Court has held that imminent harm has been found to apply “only in the clearest of cases.” Cotto v. Bd. of Ed., 294 Conn. 265, 276, 984 A.2d 58 (2009); see also Jahn v. Bd. of Ed., 152 Conn. App. 652, 662, 99 A.3d 1230 (2014).

In Haynes . Middletown, 314 Conn. 303 (2014), the Connecticut Supreme Court clarified the proper standard for evaluating the imminent harm prong of the exception to governmental immunity. Therein, the Haynes Court held that, consistent with its ruling in Evon, “a harm is imminent if it is *so likely to happen* that the duty to act

immediately is clear and unequivocal.” Id. at 321 (emphasis in original). The Haynes Court, therefore, overruled its prior decisions in Burns v. Bd. of Ed., 228 Conn. 640, 638 A.2d 1 (1994) and Purzycki v. Fairfield, 244 Conn. 101, 708 A.2d 937 (1998), to the extent that those decisions misinterpreted Evon and adopted a standard for imminent harm premised upon harms which were temporally and geographically limited. Id. at 320-23.

The Haynes Court went on to clarify that, “the proper standard for determining whether a harm was imminent is whether it was apparent to the municipal defendant that the dangerous condition was so likely to cause harm that the defendant had a clear and unequivocal duty to act immediately to prevent the harm.” Id. at 322-23. The Court further held that, “it is not enough to establish that a harm may be reasonably anticipated Rather, the risk of harm must be so great that the municipal defendant had a clear and unequivocal duty to act to prevent it.” Id. at 314, n.6 (internal quotation marks omitted; citation omitted). Stated differently, “if a harm is not so likely to happen that it gives rise to a clear duty to correct the dangerous condition creating the risk of harm immediately upon discovering it, the harm is not imminent.” Id. at 317-18.

In recognizing the narrowing of the application of the exception, the Court explained that this formulation of the standard was most consistent in acknowledging that, “the discrete person/imminent harm exception to the general rule of governmental immunity for employees engaged in discretionary activities has received very limited recognition in this state.” Id., at 318–19.

The Connecticut Supreme Court has also clarified the parameters for establishing the apparentness element of the exception in its recent decision

in Edgerton v. Clinton, 311 Conn. 217, 86 A.3d 437 (2014), as follows:

[i]mposing liability when a municipal officer deviated from an ordinary negligence standard of care would render a municipality's liability under § 52-557n no different from what it would be under ordinary negligence. This would run counter to the purpose of governmental immunity, which is to protect a municipality from liability arising from a municipal officer's negligent, discretionary acts unless the officer's duty to act is clear and unequivocal This policy is especially relevant in cases such as the present one, in which the government officer is called on to make split second, discretionary decisions on the basis of limited information Therefore, unlike under an ordinary negligence standard of care, under the apparentness requirement of the identifiable person-imminent harm exception, there is no inquiry into the ideal course of action for the government officer under the circumstances. Rather, the apparentness requirement contemplates an examination of the circumstances of which the government officer could be aware, thereby ensuring that liability is not imposed solely on the basis of hindsight, and calls for a determination of whether those circumstances would have revealed a likelihood of imminent harm to an identifiable person.

Edgerton, 311 Conn. at 228 n.10. Against this backdrop, the Court went on to hold that:

In order to meet the apparentness requirement, the plaintiff must show that the circumstances would have made the government agent aware that his or her acts or omissions would likely have subjected the victim to imminent harm This is an objective test pursuant to which we consider the information available to the government agent at the time of her discretionary act or omission We do not consider what the government agent could have discovered after engaging in additional inquiry.

Id. at 231-32. Stated differently, the "inquiry is not whether it is apparent to the government official that an action is useful, optimal, or even adequate. Rather, we determine whether it would have been apparent to the government official that her

actions likely would have subjected an identifiable person to imminent harm." Id. at 238-39.

In the instant matter, the evidence that would be admissible at trial wholly fails to establish that any agent or employee of the BOE was aware of Mr. Von Kohorn's intention to bring Girl Doe to the bathroom. Accordingly, Girl Doe was not identified, nor was the danger apparent.²

Only after a decision is reached as to whether a plaintiff is either an identifiable person do courts then address whether or not the plaintiff was also subject to imminent harm. Doe v. Bd. of Educ. of City of New Haven, 76 Conn. App. 296, 301 (2003). As set forth above, the plaintiff was not identifiable; however, even if this Court were to find to the contrary, she still cannot avail herself of the exception because she was not subjected to imminent harm.

In Doe v. Board of Education, in considering the question of imminent harm on appeal from the lower court's granting of the defendant board of education's motion to strike, the court found that the situation did not fall into the identifiable person imminent harm exception. Id. at 301-06. In that case, the plaintiff student alleged she was accosted and sexually assaulted by three male students while in an empty classroom. Id. at 297. The plaintiff alleged that one of her attackers had previously touched other students inappropriately. Id. at 297 n. 3. "The plaintiff [alleged] that the defendant failed to provide a safe and secure educational environment for students. Specifically, the plaintiff [alleged] that the defendant did not provide an adequate

² Given the courts' recent decisions on the issue of identified classes of foreseeable victims, the defendants do not contest this issue at this stage of the case.

number of hall monitors, did not implement a system for ensuring that students were not roaming the halls unsupervised and did not take steps to provide for adequate supervision of students known to have disciplinary problems or to secure vacant rooms so that they could not be used for unlawful purposes.” Id.

Because the danger did not make it “*apparent to the defendant that its failure to act would be likely to subject students to imminent harm*,” the Doe court found that the defendant could not be held liable under the “identifiable person imminent harm” exception to the qualified immunity that municipal employees enjoy. Id. at 305-06 (emphasis added). The Haynes Court also explained that the current test for the imminence of a risk of harm focuses on the “magnitude of the risk that the condition created,” rather than the duration, such that “the proper standard for determining whether a harm was imminent is whether it was apparent to the municipal defendant that the dangerous condition was so likely to cause harm that the defendant had a clear and unequivocal duty to act immediately to prevent the harm.” Haynes v. City of Middletown, 314 Conn. 303, 322–23 (2014).

This case is akin to Doe v. Board of Education. The plaintiff may not satisfy the “imminent harm” element of the three-part test. Imminent harm is “harm ready to take place within the immediate future” Tryon v. North Branford, 58 Conn.App. 702, 712 (2000). “Imminent harm excludes risks which might occur, if at all, at some unspecified time in the future.” Stavrakis v. Price, Superior Court, judicial district of Litchfield, Docket No. CV 10 6001285 (Sept. 7, 2010; *Roche, J.*). “In short, the

question is whether a situation is so dangerous that it merits an immediate response.” Brooks v. Powers, 165 Conn. App. 44, 71 (2016).

The incident, a random assault at the hands of a paraprofessional, was not a certain to happen at all. Further, the alleged harm occurring after the incident, i.e. failure to be “complete and accurate in his discussions with Girl Doe’s parents about the events of January 2, 2013, and in relaying the results of his investigation,” **see, Complaint, Count One, at ¶ 27**, likewise did not present a situation so dangerous that it merited an immediate response.

Nevertheless, even if the plaintiff could establish immanency of the harm, there exists no genuine issue of material fact that the harm was not apparent to any employee of the Town or its Board of Education and, thus, the “identifiable victim imminent harm” exception does not apply.

As of December 21, 2012, the plaintiffs had not made any complaint about Mr. Von Kohorn or his interactions with Girl Doe. Mr. Von Kohorn had an excellent record with positive end of the year evaluations from his supervising teachers. **See, Plaintiffs’ Exhibit 20 (attached as Exhibit L), introduced at the First Deposition of Fred Rapczynski; Plaintiffs’ Exhibits 24, 25, 26, and 27 (attached as Exhibits M, N, O, and P) introduced at the Second Deposition of Fred Rapczynski.** There is no evidence that the BOE had received any prior complaints about Mr. Von Kohorn. Thus, there is no evidence that would be admissible at trial showing that the specific harm at issue would have been apparent to any employee of the BOE.

As such, the exception does not apply and the plaintiffs' claims grounded in negligence are barred by the doctrine of governmental immunity, as a matter of law, and the defendants are entitled to summary judgment in their favor.

H. PLAINTIFFS' CLAIMS FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS FAIL AS A MATTER OF LAW.

The plaintiffs' claims for negligent infliction of emotional distress set forth in the Third and Fifth Counts on behalf of Mother and Father Doe, fail as a matter of law.

To establish a claim of negligent infliction of emotional distress, a plaintiff must prove the following elements: "(1) the defendant's conduct created an unreasonable risk of causing the plaintiff emotional distress; (2) the plaintiff's distress was foreseeable; (3) the emotional distress was severe enough that it might result in illness or bodily harm; and (4) the defendant's conduct was the cause of the plaintiff's distress." Carroll v. Allstate Ins. Co., 262 Conn. at 444. Like all negligence claims, a claim of negligent infliction of emotional distress requires a showing of breach of duty, see Gomes v. Commercial Union Insurance Company, supra, 258 Conn. 619.

As set forth above, these claims grounded in negligence are barred by the doctrine of governmental immunity to which no exception applies. The conduct at issue in the complaint was within the discretion of the BOE's agents. **See, Affidavit of Fred Rapczynski (Exhibit K), at ¶ 7.** Further, the defendants by their conduct did not breach any duty owed to the plaintiff and, thus, their claim for negligent infliction of emotional distress likewise fails as a matter of law. In addition, even if this Court finds

a breach of duty by the defendants, the plaintiff cannot establish the other elements of the claim.

a. The BOE Did Not Owe a Duty to Mother and Father Doe

Our courts have recognized two flavors of claims for negligent infliction of emotional distress: claims arising out of a breach of duty owed directly to the plaintiff, and claims arising out of the emotional distress suffered by the plaintiff as a bystander to an injury inflicted on another individual.

The Superior courts have held that,

[a] significant area of inquiry in claims of negligent infliction of emotion distress originating from third-party injury is whether the defendant has sufficiently pleaded a *direct duty of care owed by the defendant to the plaintiff*. A claim of negligent infliction of emotional distress requires that the “duty between the parties must be direct in order for it to be viable” as opposed to allegations of bystander emotional distress where a direct duty between the parties is unnecessary. Gregory v. Town of Plainville, Superior Court, judicial district of New Britain, Docket No. CV 03 0523568 (August 29, 2006, Shaban, J.).

Browne v. Kommel, No. FSTCV085006167S, 2009 WL 2506328, at *4

(emphasis added). Therefore, the determination of whether Mother and Father Doe allege a direct negligent infliction of emotional distress or whether these are, in fact, third-party, bystander emotional distress claims will dictate the legal analysis.

The Court should consider Counts Three and Five as claims for bystander emotional distress because there is no direct duty as between the BOE and Mother and Father Doe. Plaintiffs have not alleged in Count Three or Count Five that the BOE owed them any duty with regard to the conduct at issue in the Complaint. As a matter of law, the BOE was not under any duty to parents of students to act in a certain way

under the alleged circumstances. See, Affidavit of Fred Rapczynski, at ¶ 7. In Giard v. Town of Putnam, No. CV085002754S, 2008 WL 5481273, at *10, the court granted the motion to strike parents' claims for negligent infliction of emotional distress arising out of the school's failure to prevent their child's suicide. The court held that the BOE's employees were not under any duty to the parents to act in a certain way and were also protected by the doctrine of governmental immunity under Conn. Gen. Stat. § 52-557n(a)(2)(B). Id. Plaintiffs have not alleged any basis establishing a duty between the BOE and Mother and Father Doe, and so their claims must be interpreted as claims for bystander emotional distress.

The Supreme court held that, in order to state a claim for bystander emotional distress, (1) the bystander must be closely related to the injury victim; (2) the bystander's emotional injury must be caused by the contemporaneous sensory perception of the event or conduct that causes the injury; (3) the injury to the victim must be substantial, resulting in either death or serious physical injury; and (4) the plaintiff bystander must have sustained a serious emotional injury. Clohessy v. Bachelor, 237 Conn. 31, 52-54 (1996) holding modified by Squeo v. Norwalk Hosp. Ass'n, 316 Conn. 558 (2015). Here, the second and the third elements are not met.

Girl Doe's alleged injury would have been caused by Mr. Von Kohorn, while at school. It is undisputed that neither of her parents were present at the time the alleged injury occurred – Mother Doe had dropped Girl Doe off and remained in her car, **see Deposition of Mother Doe, at 39:19—40:20 (Exhibit A), and Father Doe was working from home that day. See, Deposition of Mother Doe, at 35:6—35:21**

(Exhibit A). It would have been impossible for them to have a contemporaneous sensory perception of the event or conduct that allegedly caused injury to Girl Doe.

Given that and Father Doe did not contemporaneously perceive the event that caused the alleged injuries to Girl Doe, their claim for bystander emotional distress fails as a matter of law.

I. **The Town of Wilton Is Entitled to Summary Judgment.**

Counts Two, Four, and Six allege that the Town of Wilton is legally responsible for any damages assessed against the BOE. To the extent that the Court grants summary judgment on the claims against the BOE, the Town is also entitled to summary judgment on the counts against it.

The controlling case law on establishes that when the underlying cause of action has been dismissed, the derivative cause of action must likewise be dismissed.

“It is inherent in the nature of a derivative claim that the scope of the claim is defined by the injury done to the principal. The party pursuing a derivative cause of action may have a claim for special damages arising out of that injury, but he may not redefine the nature of the underlying injury itself.”

Jacoby v. Brinckerhoff, 250 Conn. 86, 93 (1999). “In other words, in an action involving a derivative claim, resolution of the underlying action bars derivative claims.” Velecela v. All Habitat Services, LLC, No. NNHCV126028458S, 2014 WL 3906755, at *5, aff’d, 322 Conn. 335 (2016).

Given that the claims against the Town derive from its legal liability for the damages assessed against the BOE, the Town is also entitled to summary judgment on the counts against it.

III. CONCLUSION

For the foregoing reasons, the undersigned defendants respectfully request that the Court grant their Motion for Summary Judgment as to all Counts of the plaintiffs' Complaint.

DEFENDANTS,
TOWN OF WILTON and WILTON BOARD
OF EDUCATION

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CERTIFICATION

This is to certify that a copy of the foregoing MOL to Motion for Summary Judgment was or will immediately be mailed or delivered electronically or non-electronically on March 2, 2017, to all parties and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

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Mike Kennedy, Esquire
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Stamford, CT 06901

/s/ Thomas R. Gerarde

Thomas R. Gerarde

EXHIBIT A

IN THE SUPERIOR COURT
JUDICIAL DISTRICT OF STAMFORD
AT STAMFORD

GIRL DOE, PPA MOTHER DOE,
ET AL.

Plaintiffs,

-VS-

TOWN OF WILTON, ET AL.

Defendants. : OCTOBER 18, 2016

DOCKET NO. FST CV 15 5015035S

DEPOSITION
OF
MOTHER DOE

Pretrial deposition taken before Jolene Isdale, Licensed Shorthand Reporter, License No. 497, and Notary Public in and for the State of Connecticut, pursuant to the Connecticut Practice Book, at Silver, Golub & Teitell, LLP, 184 Atlantic Street, Stamford, Connecticut on October 18, 2016, commencing at 9:13 a.m.

1 BY MR. GERARDE:

2 Q. Now, I understand that you are a
3 plaintiff in this suit, my question is about other
4 suits, have you ever brought any other suit against
5 any other person?

6 A. No.

7 Q. Have you ever been sued yourself by
8 anyone?

9 A. No.

10 Q. I'm under the impression that once Girl
11 Doe was born you stopped working, you stayed home
12 with Girl Doe; is that right?

13 A. Yes.

14 Q. So you were a full-time mom at that
15 point?

16 A. Yes.

17 Q. Did you have anyone come in to help you
18 or was that -- did you provide all the mother
19 duties?

20 A. No, I did everything and I'm still
21 doing it.

22 Q. All right. So the time period that
23 we're talking about in this case is say, when Girl
24 Doe was in the Wilton Preschool, it was in the fall
25 of 2012 over into January 2013. That's one of the

1 relevant time blocks. Did Girl Doe attend
2 preschool before that school year?

3 A. Yes.

4 Q. Can you tell me about that, please?

5 A. She went to Children's Day School in
6 Wilton.

7 Q. When did she begin going there?

8 A. When she was three.

9 Q. And how many days is that preschool?
10 Is that everyday or is it three days a week, do you
11 know?

12 A. It was three days a week.

13 Q. How many?

14 A. Three days.

15 Q. And how long was the school day?

16 A. It was 9 to 12.

17 Q. And I have the dates correct, in
18 September of 2012, that is when Girl Doe began the
19 Wilton Preschool?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. And how many days was she attending
24 there?

25 A. I believe it was every day.

1 Q. So I'll just take that in order. So
2 she would have gone to the Children's Day School of
3 Wilton in the school year that was September 2011
4 to May or June of 2012?

5 A. Mm-hmm.

6 Q. Is that right?

7 A. Yes.

8 Q. And you're saying so when she went to
9 the Children's Day School of Wilton in September of
10 2011, she was potty trained and could toilet
11 herself?

12 A. She was in the beginning of potty
13 training.

14 Q. Did any of the adults that worked at
15 that preschool have to assist Girl Doe in any way?

16 A. No. They don't let you --
17 three-years-old, they don't get assisted in
18 Children's Day School. They have to do it by
19 themselves. They expect them to be potty trained.

20 Q. And Girl Doe's status as of
21 September 2012 when she began at the Wilton
22 Preschool, was she was full potty trained?

23 A. Yes.

24 Q. Does that mean she did not wear pull-up
25 pants, she just wore regular underwear?

1 A. Yes.

2 Q. Was there any conversation with the
3 Wilton Preschool about Girl Doe's capabilities with
4 respect to toileting? In other words, did they
5 make you check a box, "I confirm that my child is
6 toilet trained," or that "she needs help," or
7 anything like that?

8 A. I don't remember that, but I remember
9 telling them that she was full potty trained.

10 Q. You remember --

11 A. They know because she was wearing
12 underwear. I told them she didn't need any help.

13 Q. Do you actually have a memory of
14 telling that to someone? I'm taking that from your
15 last answer you told them that she was fully potty
16 trained.

17 A. Well, I remember that I believe from
18 the first meeting that we had, they asked me, like,
19 if she needed any assistance and I said, "no".

20 Q. And what you mean by that, does she
21 need any assistance with toilet training?

22 A. With the toilet training. And I said,
23 "no".

24 Q. And when was that first meeting that
25 you just referenced?

1 A. The only thing I would say is that
2 "over the recent school vacation," that's not
3 correct. That happened the last day of school when
4 I picked her up. That's what she told me what
5 happened to her that day.

6 Q. So other than what you've told me just
7 now and I'll talk to you about that in a minute, is
8 the rest of that correct?

9 MR. SLAGER: Of that bullet point?

10 MR. GERARDE: Yes.

11 A. "Mr. Eric wiped me too hard," yes,
12 that's correct.

13 Q. Let's just go through it and I'll ask
14 you some more questions. The first few words say,
15 "Over the recent school vacation while cleaning her
16 daughter after she had used the toilet, Mother Doe
17 noticed that Girl Doe was irritated down there."

18 Let's just stop there for a minute.
19 The reference here is that you noticed the
20 irritation while you were cleaning Girl Doe after
21 she had used the toilet. Is that correct?

22 A. That's not correct. I will tell you
23 how it happened.

24 Q. Okay.

25 A. My daughter went to the bathroom. It

1 was after I picked her up at school. I took her --
2 she wanted to go to the bathroom. Then she say,
3 "Mommy, Mommy, it hurts." That's what she say to
4 me. "Why, Sweetheart, it hurts?" And I notice --
5 and that's when I went and I see -- noticed it was
6 irritated.

7 She couldn't even go to the bathroom
8 because it hurt her. And it was very irritated and
9 that's what happened.

10 Q. All right. And do you remember what
11 day this was?

12 A. That was the last day of school.

13 Q. The last day before vacation?

14 A. Yes.

15 Q. So what you're saying is the last day
16 of school before the Christmas vacation in 2012,
17 December of 2012, Girl Doe was home after school
18 and was trying to use the bathroom and she told you
19 that it hurt?

20 A. Yes. She told me she couldn't go to
21 the bathroom because it hurts.

22 Q. Do you know if she was trying to go
23 number one or number two?

24 A. Number one.

25 Q. All right. And so you were not in the

1 bathroom with her to start with?

2 A. No. I was outside waiting for her
3 because I was waiting for her to go give her
4 privacy, but I was outside of the bathroom. And
5 that's when she say, "Mommy, Mommy come inside, it
6 hurts, I cannot go to the bathroom. It hurts."
7 It's irritated. And then I said, "Why, Sweetheart,
8 why is so irritated?" And she told me, "Mr. Eric
9 wiped me too hard."

10 Q. Where were you when this happened?
11 What bathroom?

12 A. In the second floor.

13 Q. Second floor --

14 A. Bathroom.

15 Q. -- of your home?

16 A. Yes. It is a hallway there. The
17 bathroom's right here (indicating). I was waiting
18 outside of the bathroom.

19 Q. All right.

20 A. With the door open.

21 Q. So was there any reason why you were
22 waiting versus just going about your business in
23 the house?

24 A. Because I just -- I'm a very helpful
25 Mommy.

1 the opening if she was going number two, was there
2 any redness down in that area?

3 A. No, it was in the vagina part.

4 Q. Okay. I think I know the answer to
5 this question, but I want to ask it anyway, did you
6 by any chance photograph what that looked like?

7 A. No.

8 Q. So there's no record at all that would
9 show exactly what that redness looked like?

10 A. No.

11 Q. All right. When -- when -- all right,
12 so now tell me, what time of day was this, you say,
13 when you got home from preschool?

14 A. It was, like, sometime in the
15 afternoon.

16 Q. When does preschool get out, if you
17 remember?

18 A. I believe it's around 12, 12:30.

19 Q. Do you know since that was the last day
20 before Christmas break whether or not that was an
21 early dismissal or was it normal time?

22 A. I think it was normal time.

23 Q. And in response to hearing that, what
24 did you do?

25 A. I immediately called my husband. My

1 husband was working in his office and I knocked on
2 the door and I said, "We need to talk." And I
3 said, "You need to call Dr. R and tell him what's
4 going on because my daughter is complaining of
5 pain."

6 Q. So you're saying you called your
7 husband at work?

8 A. My husband -- my husband was in his
9 office in my house.

10 Q. Oh, he can work from home?

11 A. Sometimes he can work from home and
12 sometimes he go travel.

13 Q. Sometimes what?

14 A. He travel.

15 Q. Oh, travel, okay. All right. So your
16 husband, Father Doe, was home at the time you
17 noticed what you noticed about Girl Doe?

18 A. Yeah, he was in his office. Usually
19 what he does is he lock himself in the office all
20 day and it's like he's not there. I see him at
21 dinnertime sometimes.

22 Q. All right. So you knocked on the door
23 and entered and spoke face-to-face --

24 A. Yes.

25 Q. -- with your husband, Father Doe?

1 A. Yes.

2 Q. And what did you tell him?

3 A. I tell him -- actually, I told him to
4 come and see what was going on. And I told him
5 that "she couldn't go to the bathroom and that Girl
6 Doe told me that 'Mr. Eric wiped me too hard'."

7 Q. All right. And then you said, "You
8 need to call Dr. R"?

9 A. Yes.

10 Q. Is that right?

11 A. (Indistinct words.) Right away.

12 THE COURT REPORTER: I'm sorry, I
13 didn't understand the entire answer.

14 THE WITNESS: Okay. Yes.

15 MR. GERARDE: I'll say it again.

16 Q. And you told your husband, "We need to
17 call Dr. R"; is that right, the initial R?

18 A. Yes.

19 Q. Are you referring to Dr. Rapczynski?

20 A. Yes.

21 Q. The director of the preschool?

22 A. Rapczynski, yeah, right.

23 Q. Did you -- did anyone call Dr. R that
24 day?

25 A. Yes.

1 Q. Who was that?

2 A. My husband.

3 Q. And what happened? Were you there when
4 he called, were you on --

5 A. Yes.

6 Q. -- his side of the phone?

7 A. Yes.

8 Q. What do you remember him saying?

9 A. He saying that he needed to talk to him
10 right away. I don't know exactly. He left
11 message, but I -- you need to ask my husband if he
12 left the message or not, but I know he call many
13 times that day because he wanted to try to talk to
14 someone before anybody go to vacation.

15 Q. And are you saying you don't know
16 whether or not he connected with anyone?

17 A. I know he was trying to leave messages,
18 he was calling many times that day.

19 Q. Do you -- all right. Did you then do
20 anything with respect to medical attention for
21 Girl Doe?

22 A. No, what I did was just put some cream
23 on her and I see her -- like, help her to be
24 comfortable.

25 Q. What cream did you use? Was it that A

1 & D ointment?

2 A. Probably. I don't remember.

3 Q. Do you know if you had her take a bath
4 or something like that?

5 A. No.

6 Q. And we have some records that show that
7 last day of school was Friday, December 21st, 2012,
8 does that makes sense to you?

9 A. Probably, yes. I remember it being the
10 last day of school, yes.

11 Q. Did you ask Girl Doe any more questions
12 about that? About how this happened? Where it
13 happened? When it happened?

14 A. She told me that Mr. Eric took me to
15 the bathroom and he was inside the bathroom with me
16 and he wiped me too hard.

17 Q. Did she tell you when that happened?

18 A. When? Actually, it was in the morning,
19 at drop off when I guess Eric took her to the
20 bathroom.

21 Q. That same day?

22 A. It was the same day, yes.

23 Q. Can you tell me what you remember about
24 that piece of it? When you say when you dropped
25 Girl Doe off at school that day and you saw Mr.

1 Eric?

2 A. Yes. Girl Doe needed to go to the
3 bathroom and she say, "Mommy, I need to go to the
4 bathroom."

5 I said, "Do you want me to take you to
6 the bathroom?" And I actually told the people in
7 drop off that, "She needed to go to the bathroom.
8 Can somebody just direct her to the bathroom or I
9 can do it?" I didn't have any problem. I know
10 they were very busy at drop off time. And they
11 say, "Don't worry about it, we will take care of
12 it."

13 And I remember this woman taking my
14 daughter by the door and giving Girl Doe to Eric,
15 which I assumed that Eric would give my daughter to
16 someone else, to a woman or somebody else, her
17 teacher to take her to the bathroom. And
18 everything start that day.

19 Q. All right. So you were in your car in
20 the drop off spot?

21 A. Yes.

22 Q. Did you have to get out of your car at
23 all?

24 A. No.

25 Q. So Girl Doe got out of the car but --

1 so who --

2 A. That woman, it was a woman who was
3 there. I don't know her by name. And she -- I
4 told her, "She needs to go to the bathroom." And I
5 ask her, "If you want me to, I can park the car and
6 take her to the bathroom because I know you guys
7 are very busy." And they say, "Don't worry about
8 it. We can take care of her."

9 So I'm turning around. I see her
10 taking her by the entrance of the door of the
11 school and I saw Mr. Eric take my daughter inside.

12 Q. And what happened to that woman who was
13 with her? Did she also go inside?

14 A. No.

15 Q. She stayed outside?

16 A. She stayed outside.

17 Q. All right. And you didn't see anything
18 more between your daughter and Mr. Eric at that
19 point once they went through the school door?

20 A. Yes.

21 Q. When you picked Girl Doe up that day,
22 did you see Mr. Eric anywhere?

23 A. No.

24 Q. Did she say anything to you about the
25 Mr. Eric when you picked her up?

1 see him when he took Girl Doe inside the bathroom,
2 yes.

3 Q. I just want to be clear about that.
4 I'm only talking about this day.

5 A. Oh.

6 Q. Friday?

7 A. I saw him once, yes.

8 Q. Friday, December 21, 2012, the first
9 and only time you saw Mr. Eric was when you saw him
10 up by the front door to the school when he took
11 Girl Doe's hand and walked inside?

12 A. Yes.

13 Q. Is that right?

14 A. Yes.

15 Q. Now, when you were told by Girl Doe
16 that the reason she had this irritation that you
17 saw was because Mr. Eric had wiped her too hard,
18 did you have any question about whether she was
19 being truthful?

20 A. No.

21 Q. Was there a part of you that thought
22 maybe this is a story she's making up?

23 A. No.

24 Q. So you were 100 percent accepting that
25 she was telling you that this male aide had come

1 into a stall with her and put his hand on her
2 vagina and wiped her?

3 A. No, I just wanted to -- I had no
4 question that she was lying to me in any way. I
5 just wanted to know the whole story, that's why I
6 was trying to call the school many times. As a
7 parent, you just don't want to think that happened
8 to your kid. So I was just thinking maybe
9 something else happened, maybe it's a mistake or
10 maybe -- I don't know. She's confused. As a
11 parent, you just want to think the best. And
12 that's what's in my mind, that's why I needed to
13 reach the school first before I do anything else.

14 Q. All right. And I was about to ask you,
15 is there some reason why you didn't call the Wilton
16 Police Department when you learned this?

17 A. Because I wanted to know exactly what
18 happened and I trust the school that they knew
19 exactly what happened. They would tell me exactly
20 what happened in the situation. If Eric actually
21 took her to the bathroom that day, if he was
22 waiting outside. I just wanted to find out if they
23 have any information before I take the step.

24 Q. And when is the next time that Girl Doe
25 saw her pediatrician, Dr. Agoglia, if you know?

1 A. I don't recall.

2 Q. Am I correct when I say that you never
3 made a special appointment with Dr. Agoglia so that
4 he could -- I'm sorry, so that she could examine
5 Girl Doe's genital area to make sure everything was
6 okay?

7 A. No, I don't recall me going for that
8 reason.

9 Q. All right. And you say that what this
10 irritation that you noticed, that faded in two or
11 three days of using ointment?

12 A. I don't remember how many days it took.
13 I just remember putting cream to her everyday to
14 make sure she was comfortable.

15 Q. Do you remember that there came a time
16 in the next several days when Girl Doe was able to
17 go number one without pain?

18 A. This was so long ago. I don't know how
19 long it took her to go to the bathroom being
20 comfortable without hurting her.

21 Q. But it did happen that she got better?

22 A. Eventually, yes.

23 Q. By the time she went back to school
24 after school vacation, was it better?

25 A. I think so, yeah.

1 Q. Was it one of the teachers or one of
2 the aides?

3 A. One of the aides, I think. I don't
4 recognize her being a teacher.

5 Q. All right. What grade is Girl Doe in
6 currently?

7 A. Second grade.

8 Q. In which school?

9 A. Miller-Driscoll.

10 Q. I'm sorry?

11 A. Miller-Driscoll.

12 Q. Miller-Driscoll. Who is her teacher?

13 A. Castle, Mrs. Castle.

14 Q. And how is she doing?

15 A. She likes her teachers, yeah, she likes
16 her teachers.

17 Q. How did she do in first grade? How did
18 she enjoy, did she have problems with peers, did
19 she get good grades, anything, what can you tell
20 me?

21 MR. SLAGER: Object to the form,
22 but you can answer.

23 A. She did okay. She have some low
24 self-esteem based what the report of the school
25 told me, the teachers it seems like she has low

1 and I remember -- that happened before I even find
2 out that Eric was going to be arrested -- was
3 arrested. And -- oh, he admitted he lied about
4 taking my daughter to the bathroom.

5 He got -- I'm never going to forget.
6 He told me, "It was okay -- it was okay to bring
7 him back, that everything was fine. That there was
8 not any problem." He guarantee me that everything
9 would be okay.

10 So I talked to my husband and we say
11 well, if Dr. R say that after all the
12 investigation, everything is -- nothing happened
13 then it's okay to bring him back. And we agreed to
14 it. Bring him back to her classroom and that was
15 with Mrs. Dawn classroom.

16 Q. Dawn DiNoto?

17 A. Dawn DiNoto, yes.

18 Q. All right. So just so I understand the
19 context of this. Dr. Rapczynski was calling you to
20 ask if it was okay with you if Eric appeared in the
21 classroom where Girl Doe was attending school?

22 A. Yes, and by that time --

23 MR. SLAGER: That's his only
24 question.

25 THE WITNESS: Yes.

1 BY MR. GERARDE:

2 Q. And Eric was not going to be providing
3 assistance to Girl Doe specifically. He was going
4 to be with a different student. Am I correct about
5 that?

6 A. He just told me he was going to be in
7 the same classroom with her.

8 Q. All right. And am I correct that as of
9 that time you received that call, you had accepted
10 that nothing had happened between Eric and Girl
11 Doe?

12 A. Before that, before I got that phone
13 call yes, because I trust Dr. R that he did
14 everything. And I trusting that it didn't happen.

15 Q. And then what about after you got the
16 phone call?

17 A. After the phone call --

18 MR. SLAGER: Which phone call?

19 MR. GERARDE: Let me -- okay.

20 Thank you.

21 Q. I'm talking first of all about the
22 phone call from Dr. R telling you or asking you
23 would it be all right if Eric was in the classroom
24 with Dawn DiNoto.

25 A. When he call me --

1 MR. SLAGER: There's no question.

2 BY MR. GERARDE:

3 Q. That's the phone call I'm talking
4 about. And earlier in your response you said after
5 I received the phone call, I thought that something
6 had, in fact, happened between Eric --

7 A. No.

8 Q. But was it that phone call or was it
9 the phone call about Eric's arrest?

10 A. When I got the phone call saying that
11 Eric was arrested, that's when I was, like, maybe
12 something happened.

13 Q. Okay.

14 A. Something happened.

15 Q. I now understand. Let me go back to
16 the phone call from Dr. R when he said to you,
17 "Would it be all right if Eric appeared in Dawn
18 DiNoto's room because we're short-staffed?"

19 As of that time, had you accepted that
20 probably nothing had happened between Eric and your
21 daughter?

22 A. Yes.

23 Q. All right. But you did know that she
24 had a red irritation?

25 A. Yes.

1 happened. The -- only at that time.

2 Q. I think I remember reading somewhere
3 that at Girl Doe's first preschool, that she was
4 described as being a management problem, she was
5 hard to manage by the staff?

6 A. (Shaking head).

7 Q. Did you ever see or hear of that?

8 A. No.

9 Q. What were the reasons that you stated
10 were the reasons why Girl Doe needed to go or was
11 recommended to go to the Wilton Preschool from the
12 earlier preschool?

13 A. It was sensory and it was also not able
14 to focus in one -- when she was playing, she
15 couldn't stay still. When they were reading books,
16 it was more about she wasn't able to concentrate on
17 stuff.

18 Q. Now, there was a time in -- where if
19 I'm reading the records correctly and I want to ask
20 you about this, there was a time when there was a
21 statement made about you that you stated to Girl
22 Doe at one point that "if she didn't behave, you
23 would call the police on her and that resulted in
24 an investigation and things like that."

25 Can you tell me about that?

1 A. Yes, she was not behaving well. And
2 she wasn't listening. I don't remember exactly
3 what she did, but I did say that, which I regret
4 it, but I was dealing with two kids and that's how
5 I was, "If you don't behave you know what happens
6 with bad people, we call the police."

7 MR. SLAGER: Slow down.

8 A. And that's what I said.

9 BY MR. GERARDE:

10 Q. When did you say that, where on the
11 calendar are we?

12 A. I don't remember.

13 Q. Was this before or after this day that
14 you say Eric Von Kohorn took her into the bathroom
15 on December 21, 2012?

16 A. It's probably before.

17 Q. All right. And tell me what was it
18 that prompted you to say that?

19 A. I don't remember. She probably wasn't
20 behaving like a typical three-year-old. And I -- I
21 say it. And that's the first time I ever say
22 something like that. So...

23 Q. What exactly was it that you said?

24 A. "You know what, there are people that
25 not behave, what they do, I would probably call the

1 police, like, I call the police." And she actually
2 went to school and told them. And when they call
3 me and I say, "Well, yes, I did say that. And I
4 shouldn't say it, but I did say it."

5 Q. And did the Department of Children and
6 Families conduct an investigation at that point?

7 A. No.

8 Q. Did you get any counseling in terms of
9 modifying parenting behavior or anything like that?

10 A. No.

11 Q. All right. Did you ever attend therapy
12 yourself?

13 A. I'm in therapy right now.

14 Q. Who do you see?

15 A. Karen Olio.

16 Q. What issues are you working on with
17 Karen Olio?

18 A. We're working -- right now, I'm
19 currently taking medication for depression and
20 also, we are going there as a couple to make our
21 marriage better. Our marriage was very affected
22 after what happened to Girl Doe. And we just
23 working very hard with her to make things better.

24 Q. What -- I'm sorry, when did you first
25 begin seeing anyone for therapy?

1 discuss because I think that's private, but, you
2 know, that's what we do. Sometime a week or went
3 two weeks or every other week or once a week, it
4 depends on what's my stage -- what stage I am. How
5 emotional I am right now.

6 Q. And did you say you have a
7 prescription?

8 A. Yes.

9 Q. What is that?

10 A. Lexapro.

11 Q. How long have you had a prescription?

12 A. How long I have it for, probably a year
13 or more.

14 Q. Do you know if Girl Doe is currently
15 receiving special education services?

16 A. She's not receiving special education
17 services in the school, no.

18 Q. Did she in -- in first grade, did she
19 receive --

20 A. Yes.

21 Q. -- special ed?

22 A. Yes.

23 Q. Tell me what was the special education
24 services she received in first grade?

25 A. In social skills, OT.

1 you, Mother Doe, or if it's referencing Girl Doe,
2 but it says, "specifically" it must be Girl Doe,
3 "that the boy had hit another girl with a block and
4 that he had told Girl Doe that she should take her
5 clothes off and he would lay down on her."

6 A. This is incorrect. I can tell you
7 exactly what happened.

8 Q. Thank you. Go ahead.

9 MR. SLAGER: Go ahead.

10 A. Yes. My husband and I were in the
11 basement where is the playground of the kids. My
12 daughter was playing with her dolls.

13 BY MR. GERARDE:

14 Q. Is this your home?

15 A. Yes, this is my home.

16 Q. The basement of your home?

17 A. Yeah. I think you need to know this
18 exactly what I say to Dr. R.

19 Q. Okay.

20 A. She was playing with naked dolls, she
21 would get the dolls, the Barbie's all naked and she
22 was putting the dolls against to his shoulder and
23 then -- and then told us from nowhere, "Mommy,
24 Daddy, this is how Mommy's and Daddy's lying down
25 together." And then when we hear that, we were in

1 shock.

2 And we say, "Where do you hear this
3 information?"

4 And she say, "Well, my friend M told me
5 that this is what adults do and he asked me to do
6 the same thing with him.

7 And I told her "no".

8 That was one of the things that we
9 talked to Dr. R, that the parents needed to be
10 informed. Because I know that as a parent, I would
11 like to be informed if my kids is saying something
12 like that.

13 Q. So if I go to the last sentence again
14 and we just stay with the first part of it. "Girl
15 Doe claimed that the boy had hit another girl with
16 a block."

17 Do you know anything about that?

18 A. This happened afterwards. He's
19 confused. I know that after we have this meeting
20 about the information we give him, Girl Doe was not
21 even really upset. She was, "Well, he's weird,"
22 you know, "he say something like that to me." But
23 then this continued probably for a month, a
24 month-and-a-half when Girl Doe would come home and
25 say, "Well, he's not so nice, you know, he's not

1 nice to my friends." I remember being in play, we
2 have play time with someone else and somebody,
3 "Yeah, he's not nice to us" and things like that.

4 THE COURT REPORTER: Please slow
5 down so I can understand you.

6 A. Yeah, "He's not nice to us" and things
7 like that. Which for me wasn't such a big deal
8 because I know there's a lot of kids that go to
9 this school that have a different issue they have
10 to deal with. But what's concerning to me, it was
11 -- a lot had to do with this information to be --
12 you know, Dr. R would tell this information to this
13 kid's parents.

14 Q. So do you know anything about this boy,
15 M, hitting another girl with a block?

16 A. I did hear that before, but that was
17 after Girl Doe told me about what he say to her
18 about taking the clothes off and "That's what
19 parents do and adults do."

20 Q. All right. So do you think that there
21 was a time, even if it was after this time when you
22 told me about the dolls and the clothes, that you
23 told Dr. R that this boy hit another girl with a
24 block?

25 A. I probably -- my husband and I -- I

1 don't remember if it was me or my husband, but I
2 know we informed him that he was being sometimes
3 aggressive and not nice to the girls. There's
4 another girl who went to my house and told me that
5 they didn't like him that much and he was not a
6 nice boy and things that I don't recall exactly
7 what they said but it was based on that.

8 Q. And did all this information that was
9 given to Dr. R, meaning that a boy had hit another
10 girl with a block and that the boy said to Girl Doe
11 that "parents lay down on each other without their
12 clothes and if you take your clothes off, I'll do
13 it to you." Did that all happen before this day
14 we're talking about in this deposition, December
15 21, 2012?

16 A. This happened before. And just to
17 clarify, when we had the first meeting with Dr. R,
18 the only thing I told him is about what I told you
19 before what Girl Doe told me is that the boy told
20 her, "This is what adults do." And, you know, "You
21 want to do it with me?" And Girl Doe say "No." We
22 never talk about he being aggressive to them or
23 being mean to her.

24 Q. Right.

25 A. We just talk about he saying this

1 STATE OF CONNECTICUT:
2 : SS:
3 COUNTY OF FAIRFIELD :

4 I, Jolene F. Isdale, LSR No. 497, a
5 Notary Public for the State of Connecticut, do
6 hereby certify that Mother Doe was by me first duly
7 sworn, to testify the truth, the whole truth, and
8 nothing but the truth, and that the above
9 deposition was recorded stenographically pursuant
10 to Notice by me and reduced to typewriting by me.

11 I FURTHER CERTIFY taken that the foregoing
12 transcript of the said deposition is a true and
13 correct transcript of the testimony given by the said
14 witness at the time and place specified hereinbefore.

15 I FURTHER CERTIFY that I am not a
16 relative or employee or attorney or counsel of any
17 of the parties, nor a relative or employee of such
18 attorney or counsel, or financially interested
19 directly or indirectly in this action.

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand and seal of office at Newtown, Connecticut,
22 this 18th day of October, 2016.

23
24 Jolene Isdale, Notary Public
25 My Notary Commission Expires:
April 30, 2019

EXHIBIT B

1 DOCKET NO.: FST-CV15-5015035-S
2 - - - - - x SUPERIOR COURT
3 GIRL DOE PPA MOTHER DOE JUDICIAL DISTRICT OF
4 AND FATHER DOE, STAMFORD/NORWALK
5 MOTHER DOE, INDIVIDUALLY AND
6 FATHER DOE, INDIVIDUALLY,
7
8 v.

9
10
11 WILTON BOARD OF EDUCATION
12 AND TOWN OF WILTON
13 - - - - - x July 7, 2016
14

15 DEPOSITION OF FRED RAPCZYNSKI
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21 Taken before Gina M. Ruocco, LSR #516,
22 Court Reporter and Notary Public within and
23 for the State of Connecticut, pursuant to
24 Notice and the Connecticut Practice Book, at
25 Law offices of Silver Golub & Teitell, 184
Atlantic Street, Stamford, Connecticut on
Thursday, July 7, 2016, commencing at 2:49 p.m.

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1 out loud.

2 A. Correct.

3 MR. GERARDE: May I see that back,
4 please?

5 THE WITNESS: Sure.

6 MR. GERARDE: Thank you.

7 Q. When did you first learn that a student
8 at Miller-Driscol alleged that Eric Von Kohorn had
9 inappropriately touched her?

10 A. January 3rd, 2000 and -- yeah, 2000 and
11 13.

12 Q. Would it help you to look at exhibits --
13 Exhibit 2?

14 A. Yeah.

15 Q. Please.

16 Or Exhibit 3. You're welcome to look at
17 anything you'd like.

18 A. January 3rd, 2013.

19 Q. And how is it that you first learned
20 that Girl Doe had alleged that Mr. Von Kohorn had
21 inappropriately touched her or assaulted her?

22 A. A phone call from the parent indicating
23 that his daughter had indicated that Mr. Eric had
24 hit her in the head with a doll, and that his wife
25 had noticed when attending to hygiene needs that the

1 girl had irritation in her private area.

2 Q. And --

3 A. And that the girl had indicated that,
4 Mr. Eric rubbed me too hard, or wiped me too hard.

5 Q. And that's all information that's
6 documented in Exhibit 2, correct?

7 A. Correct.

8 Q. Do you have any -- any memory of that
9 conversation with Mr. Doe that's separate and apart
10 from the information that's contained in Exhibit 2?
11 Either things that he said to you or that you said
12 to him, or any other part of the conversation that
13 is not reflected in the exhibit.

14 A. About the alleged behavior of Mr. Eric?
15 Not that I can recall.

16 Q. What about any other aspect of -- of the
17 interaction that's documented in Exhibit 2
18 between -- or by Mr. Von Kohorn upon Girl Doe?

19 A. I believe there was some discussion that
20 his daughter didn't want to be taken out of the car
21 the last day before the December vacation by
22 Mr. Eric.

23 Q. Okay, and that was part of that initial
24 communication you had on -- on January 3, 2013?

25 A. I believe it was.

1 Q. All right. And do you remember with any
2 more specificity what it is that Father Doe said in
3 that -- about that?

4 A. Other than what's contained in this
5 document?

6 Q. Other than what's contained in the
7 document, and other than what you just told me about
8 Father Doe indicating that Girl Doe did not want to
9 be taken out of the car by Mr. Eric.

10 A. Not that I can recall.

11 Q. Okay. And do you remember anything you
12 said in response?

13 A. This is a conversation that's happening
14 on January the 3rd. There had been many
15 conversations prior to that in previous months that
16 we had. So I'm not sure -- if you can be a little
17 more specific.

18 Q. Sure, absolutely. I'm going to ask you
19 about the other conversations -- actually, I can do
20 that now. I was really just asking about this
21 conversation, but if -- if you'd like we can talk
22 about the other conversations.

23 You mentioned that there were a number
24 of other conversations you had relating to Girl Doe
25 with either her mother or her father. Can you tell

1 me what you remember about those?

2 A. There was one conversation that focused
3 on the girl's reporting that a boy had asked her to
4 take her clothes off and that he would lie down on
5 her. That's not verbatim, but you get the idea.

6 Q. When did that one take place, to the
7 best of your memory?

8 A. Between mid-November and beginning of
9 December, somewhere in there.

10 Q. 2012?

11 A. Correct.

12 Q. Okay.

13 A. There was another conversation about
14 some statements that the girl had made to her
15 teacher about her mother threatening to call the
16 police on her. There were conversations --

17 Q. When was -- when was that one?

18 A. This time period between mid-November,
19 mid-December --

20 Q. Okay.

21 A. -- 2012.

22 Q. Okay. All right. That -- that was a
23 second conversation. Were there others?

24 A. We had discussions about her knowledge
25 typically of adult behavior that typically three,

1 four-year-olds don't have. It's unusual for them to
2 have.

3 Q. When did you have those discussions?

4 A. Between November -- mid-November and
5 mid-December, 2012. I explored with the parents
6 possible ways that she could have acquired that
7 information. The parents were at a loss as to how.
8 Mom did acknowledge that the girl was very difficult
9 for her to manage, and I gave them information about
10 a therapist -- offered them information about a
11 therapist that they could contact to address the
12 home behavior.

13 Q. And what you're identifying now, is that
14 a single conversation or a series of conversations?

15 A. Probably three conversations. In total,
16 three or four conversations from mid-November to
17 mid-December 2012.

18 Q. Okay. And you've identified one
19 about -- you've identified three separate subject
20 areas. Are there any other subject areas that you
21 remember having discussions about Girl Doe with her
22 parents?

23 A. Those are the ones that I can recall
24 right now.

25 Q. Okay. And in total across the spectrum

1 of those issues, you -- you believe there were
2 three, perhaps four conversations with Mother and/or
3 Father Doe about Girl Doe relating to these various
4 issues?

5 A. Correct.

6 Q. Again, prior to late December of 2012,
7 correct?

8 A. Correct.

9 Q. Okay. And is it fair to say that any of
10 the conversations you had prior to the report about
11 Von Kohorn with Father Doe or Mother Doe would have
12 been about one of these three categories of subjects
13 that you just identified?

14 A. Correct.

15 Q. All right. And the first was the girl
16 reporting that a boy was bothering her and asked her
17 to take her clothes off and to lie down with her?

18 A. Correct.

19 Q. All right. Do you remember -- other
20 than that, do you remember any more detail about
21 what you learned about that issue or what you
22 communicated with the parents about that issue?

23 A. I had indicated to the parents that the
24 behavior that was described, that they were
25 describing to me about the boy, based upon their

1 daughter's reporting, was inconsistent with my
2 knowledge of the child, inconsistent with the
3 teacher's knowledge of that child, and I
4 subsequently did ten random observations in that
5 classroom and my observations did not support the --
6 the behavior that was being reported.

7 Q. Okay. And --

8 A. In fact, it actually supported a reverse
9 role.

10 Q. That -- in other words, that she was
11 eliciting a response from the boy?

12 A. She was actively seeking interaction
13 with the boy. The boy did not want to have any part
14 of the interaction.

15 Q. Okay. And that's something you noticed
16 during the ten random observations you did?

17 A. Correct.

18 Q. And was it actually ten?

19 A. It was ten.

20 Q. Okay. And did you document those in any
21 way?

22 A. Not in writing, no.

23 Q. All right. You just remember them?

24 A. It was all in one week, and it was
25 during focused conversations with the parents that I

1 about either Girl Doe's reports about the boy
2 bothering her or about your observations or
3 investigation of those reports, other than what
4 you've already told us?

5 A. No.

6 Q. Okay. And you reached the conclusion,
7 based on your observations and what you knew of the
8 other boy, that her reports were -- were not
9 credible?

10 A. And report from the teacher of the
11 classroom who --

12 Q. Who was that teacher?

13 A. That was Marianne Neville.

14 Q. And did you also interview the teacher
15 in connection with --

16 A. I did.

17 Q. What did -- tell me about that
18 interaction.

19 A. She was very surprised about the
20 behavior that was being reported, and indicated that
21 that was not consistent with her observation at all
22 about the boy.

23 Q. Okay. So that further --

24 A. And also that there was -- she, two
25 paras and a teacher, probably a ratio of three

1 adults to maximum twelve at that time kids, that
2 there was no hitting of -- by the boy using a doll.
3 Absolute -- absolutely none.

4 Q. Okay, and was one of those paras Eric
5 Von Kohorn?

6 A. No. Eric had limited interaction in
7 that classroom. Very limited.

8 Q. Okay. Do you remember anything else
9 that you -- that the teacher said to you or that you
10 said to the teacher about this -- the report by Girl
11 Doe of a -- the boy hitting her and saying things
12 about taking clothes off and that stuff?

13 A. No.

14 Q. And do -- did you do anything else to
15 investigate those claims, other than the things you
16 already identified?

17 A. I did not, except report back to the
18 parents.

19 Q. And tell me what you reported back to
20 the parents.

21 A. That the information that I had gathered
22 did not substantiate what they had indicated their
23 daughter said to them. That it was in -- totally
24 contrary to the observations of the staff, my own
25 observations, and out of character totally for the

1 boy.

2 Q. And did you reach the conclusion based
3 on your investigation to -- into this particular
4 complaint, that Girl Doe was making it up
5 essentially?

6 A. That was a -- that was a strong
7 possibility.

8 Q. Okay, and did you tell the parents that?

9 A. Uh-huh. I did. Yes.

10 MR. GERARDE: You have to answer
11 yes if you mean yes.

12 A. Yes.

13 Q. All right. And when did you have the
14 conversation with the parents both about the -- the
15 concerns that Girl Doe had expressed but also about
16 the conclusions you reached based on your evaluation
17 of the issue?

18 A. That was probably in beginning to
19 mid-December of 2012.

20 Q. And do you remember anything else about
21 that incident or matters related to that incident,
22 other than what you've already told us?

23 A. Other than trying to explore with the
24 parents where that kind of information, what
25 generated that -- those statements, where it could

1 have come from, and awareness.

2 Q. And what did you do in order to
3 investigate that with the parents?

4 A. Asked the parents to think about just a
5 variety of possible situations where inadvertently a
6 child could be exposed to adult behavior quite
7 innocently, quite by chance, and they indicated that
8 there was no possibility.

9 Q. Okay.

10 A. But they -- again, the mother had
11 indicated that her daughter was a management problem
12 for her, and to the point where she would tell her
13 that she was going to call the police on her. And
14 that's when I provided the resource for a therapist.

15 Q. Prior to November of 2012, which is the
16 period of time we're talking about now, but prior to
17 November of 2012 had -- had you ever heard any
18 claims made by Girl Doe or had any issues with Girl
19 Doe that you were directly related -- involved in, I
20 should say?

21 A. She was referred to our program by one
22 of the community based preschools, so we did some
23 intervention in that preschool, and then had a
24 diagnostic placement during the summer and then
25 determined that she was eligible for services as a

1 child with a developmental delay in the play social
2 area. And accepted her into our program.

3 Q. And prior to November 2012 and the first
4 incident where Girl Doe reported that this boy was
5 bothering her, had you ever had any other
6 indications that led you to conclude that Girl Doe
7 was being untruthful in any way?

8 A. There were statements by the teacher
9 that you couldn't always count on what she said.

10 Q. Which teacher said that?

11 A. Marianne Neville.

12 Q. When did she tell you that?

13 A. It could have been right around --
14 again, that same time frame, beginning of -- middle
15 of November to the end of November 2012.

16 Q. Was that something that Marianne Neville
17 told you during the time where you were asking her
18 about these interactions with the boy?

19 A. Yes, she did say that during the time,
20 but I also believe that there were statements like
21 that prior to.

22 Q. Okay. And do you remember that clearly?

23 A. As clearly as I can, looking back almost
24 three years ago.

25 Q. But are you comfortable testifying that

1 there were times before November of 2012 that --
2 that Girl Doe's teacher told you that you couldn't
3 always count on what she was reporting?

4 A. That was my impression. I can't say
5 definitively that that was said on a specific time,
6 but I'm sure the teacher would have a better
7 recollection of that.

8 Q. And -- and I -- I'll have a chance to
9 ask her about that later, but in terms of your
10 recollection, I'm just trying to understand what the
11 limits of that recollection are.

12 A. Uh-huh.

13 Q. Do you have any specific recollection of
14 conversations with Girl Doe's teacher, Ms. Neville,
15 prior to November 2012 in which Ms. Neville
16 communicated to you that she felt Girl Doe was
17 untruthful in any way?

18 A. I don't remember specific incidents, no.

19 Q. Okay. I want to go to the second
20 category, the second issue I suppose, in that
21 November and December 2012 time period that you
22 identified, which were -- which involved statements
23 Girl Doe made relating to the mother threatening to
24 call the police. That was kind of the second issue
25 you identified earlier, correct?

1 A. Yes, correct.

2 Q. And -- and she was relaying that to you
3 because she thought you ought to know about that?

4 A. She knew that I was involved in
5 conversations with the parents.

6 Q. Okay. And did you contact the parents
7 to discuss that issue?

8 A. It was one of the topics that we talked
9 about at our meetings.

10 Q. Do you remember whether that was a topic
11 you discussed with them once or more than once?

12 A. I would say at least once, but I can't
13 say more.

14 Q. Okay. And tell me what it is that you
15 discussed on that issue.

16 A. The frustration of dealing with the
17 girl's behavior at home. Mom's frustration.
18 Looking at other ways to -- to manage that behavior,
19 and I thought that it was something that they would
20 benefit from in terms of seeking private support for
21 the home.

22 Q. Did you make a recommendation to the
23 parents?

24 A. I gave them at least one name, if not
25 multiple names.

1 Q. And what sort of person did you give the
2 name -- give them the name of?

3 A. Behavior therapists.

4 Q. And what was it that you thought that
5 they could benefit from?

6 A. Helping Mom to learn more effective
7 management strategies.

8 Q. And did you have a conversation with the
9 parents about whether the mother had ever threatened
10 to call the police as --

11 A. Oh, yes. She -- she had indicated that
12 she had made the statement. Again, out of
13 frustration.

14 Q. That she had made the statement?

15 A. That she had.

16 Q. Okay. And so your -- and do you
17 remember who you recommended as a behavior --

18 A. I did. I do remember. I really do.
19 They did not end up with him because he was booked
20 at the time, and I think that they ended up pursuing
21 another -- another group. I'd have to check back my
22 notes.

23 Q. Okay. And maybe it's --

24 A. It's somebody who does that kind of work
25 with a variety of families in the district.

1 that struck you as odd or inappropriate?

2 A. The -- the teacher had indicated that
3 sometimes she -- she would act, and I'll -- I'll use
4 that term that she used, provocatively, but didn't
5 go into much detail on that.

6 Q. Did you ever learn what the teacher
7 meant by that?

8 A. Flirtatious.

9 Q. And is that something you ever
10 personally observed?

11 A. I did not.

12 Q. And -- and again, when you're referring
13 to the teacher, I assume you're talking about
14 Marianne Neville again --

15 A. Yes.

16 Q. -- as reporting that to you?
17 Is that --

18 A. There is also a team. There's always a
19 team that works with -- so it's just not one
20 individual. That the team leader is the teacher.

21 Q. Who else was on that team?

22 A. I'd have to look back.

23 Q. Do you remember whether other members of
24 that team made any reports related to Girl Doe prior
25 to January 2013?

1 A. Not that I can remember.

2 Q. And I think you mentioned earlier that
3 in your discussions with the parents you -- you
4 talked to them about how she acquired that
5 information. Is that -- does that relate back to
6 the conversation that you mentioned before, where
7 you inquired whether maybe even innocently the child
8 had seen something at home or something?

9 A. Correct.

10 Q. And the parents said they had no idea
11 how she could have acquired that sort of
12 information?

13 A. Correct.

14 Q. Were there any other issues that came up
15 with Girl Doe prior to January of 2013 that led you
16 to discuss Girl Doe or her activities at school with
17 Mother and Father Doe, other than what you've
18 already talked about here?

19 A. The reference to being hit, with the
20 doll, that was part of the conversation. That
21 wasn't substantiated by the staff.

22 Q. That's what you talked about before
23 where the boy with -- her claim that the boy had hit
24 her with a doll?

25 A. Correct.

1 Q. That -- I think -- was there anything
2 other than what you already told us about that that
3 you remember?

4 A. No.

5 Q. And are there any other issues that ever
6 came up that you recall involving Girl Doe prior to
7 January of 2013?

8 A. She was in the program because of
9 certain behaviors. I mean, those were ongoing.
10 Those were issues that were being addressed.

11 Q. What kinds of behaviors?

12 A. There was some noncompliance, there were
13 some hyperactive kinds of behaviors, difficulty with
14 self-regulation, those kinds of things.

15 Q. And what was the program as you
16 identified it?

17 A. Which program are you --

18 Q. You said she was in the program because
19 of certain behaviors.

20 A. Preschool. Wilton preschool services.

21 Q. Okay. And was she receiving special
22 services that students without those problems were
23 not receiving?

24 A. Yes. The -- Marianne Neville is a
25 special education teacher, also an early childhood

1 teacher, and I believe that there were other school
2 psychologists that -- I believe at one point we did
3 a functional behavior assessment. That's to design
4 the behavioral interventions.

5 So there were a variety of clinicians
6 that were working on the team and addressing some of
7 those behaviors that I cited.

8 Q. And can you recall any specific
9 behaviors as you sit here today that you were
10 working on with -- with Girl Doe prior to January of
11 2013?

12 A. Self-regulation.

13 Q. And what do you mean by that, to someone
14 who's not --

15 A. Putting the brakes on, knowing when to
16 slow down, being able to slow down. Sensory issues
17 sometimes play a role there, so there's probably an
18 occupational therapist involved.

19 Q. Okay.

20 A. She was also -- I think there was some
21 indications that she had early toe walking. That's
22 not a major issue, but I think that's a consultation
23 with the physical therapist.

24 Q. Okay. And what's early toe walking?

25 A. Where children walk on their toes.

1 Sometimes it's an indication of other issues,
2 sometimes it's not.

3 Q. And in her case, did you ever determine
4 whether it was?

5 A. I do not believe that it panned out that
6 it was something to be more concerned about.

7 Q. But it was something that was examined?

8 A. Yeah.

9 Q. Or reviewed?

10 A. Yes.

11 Q. Okay. All right. So have we covered
12 the -- those interactions with the Doe family that
13 you recall taking place prior to this January 3,
14 2013 report by Girl Doe, or by Girl Doe's parents,
15 about the inappropriate interaction with Eric Von
16 Kohorn?

17 A. To the best of my recall right now,
18 yeah. Yes.

19 Q. And going back to -- then to January 3,
20 2013, when you received this telephone call and
21 learned the information that was reported in that
22 call by Father Doe, how did you respond?

23 A. I indicated that I was surprised,
24 because I don't -- I did not think that there would
25 have been opportunity for anything like that to

1 occur.

2 Q. And why was that your view?

3 A. Because of the assignments, because of
4 where Eric was, because of what classroom the child
5 was in, because of the supervision that occurs.

6 Q. Okay. So did you tell Father Doe in
7 that initial phone call on January 3, 2013 that
8 you -- that it seemed unlikely to you that there had
9 been any inappropriate contact by Eric Von Kohorn
10 upon Jane Doe?

11 I'm sorry, Girl Doe.

12 A. I had indicated that I was questioning
13 opportunity, and that I wanted to talk to staff to
14 get a better sense of that, whether or not there was
15 opportunity.

16 Q. And is that something you said to Father
17 Doe during that initial phone call?

18 A. I believe I did, yes.

19 Q. And do you remember how he responded?

20 A. Since I went forward with it, I believe
21 he was okay with getting that information.

22 Q. Okay. And did you then take steps to --
23 to investigate?

24 A. I did. I interviewed a variety of
25 people who would have had information about any

1 potential interaction between Eric and the girl.

2 Q. And was Eric Von Kohorn one of the
3 people you interviewed?

4 A. I did.

5 Q. And what did you learn in those
6 interviews?

7 A. That Ms. Neville, where there was
8 limited interaction in the classroom. Because Eric
9 was not assigned to that classroom, but occasionally
10 shift staff around for coverage. That there was no
11 responsibility for Girl Doe --

12 Q. We'll -- we'll go back after you finish
13 your answer --

14 A. Jane Doe.

15 Q. -- and -- and strike that. But go ahead
16 and finish your answer first.

17 A. And that he never had responsibility for
18 taking her to the bathroom.

19 Joy Blair, whose class Eric was
20 assigned, absolutely no responsibilities for
21 toileting, and absolutely no contact with her.
22 Paraprofessional conducted himself appropriately.
23 Eric didn't -- said he never toileted her.

24 Q. Okay. And in your last answer you
25 mentioned the first name of Girl Doe.

1 MR. SLAGER: And by stipulation,
2 Counsel, I'd just like to ask the court reporter to
3 strike that from the transcript and just insert Girl
4 Doe.

5 MR. GERARDE: Yes, that's agreed.

6 MR. SLAGER: Thank you.

7 Q. Okay. So -- and -- and those -- the
8 people you spoke to are -- are all mentioned in
9 Exhibit 2, which is the DCF report you initially
10 prepared in connection with this, correct?

11 A. That's correct.

12 Q. May I see that, please?

13 Your report to DCF that's been marked as
14 Exhibit 2 that's dated January 7, 2013, indicated
15 that you also spoke to Ms. Jane Anderson and Ms. Ann
16 Paul, correct?

17 A. Correct.

18 Q. And what was your purpose in speaking to
19 them, or consulting with them?

20 A. They were my supervisor, Ann Paul, and
21 the director of human resources, Jane Anderson. And
22 I -- since it involved a staff member, I wanted to
23 keep them informed.

24 Q. And the conversations you had with
25 Ms. Neville, Girl Doe's teacher, Ms. Flemming, who

1 was a paraprofessional in Girl Doe's classroom, and
2 Von Kohorn's supervising teacher, Ms. Blair, as well
3 as Mr. Von Kohorn himself, were those all
4 conversations that were focused on exploring whether
5 Mr. Von Kohorn had opportunity to do the things that
6 Girl Doe had alleged in terms of access to Girl Doe
7 and to the bathroom and things along those lines?

8 A. Yes.

9 Q. All right. And your conclusion based on
10 those interviews was that he -- he had not had
11 access, and therefore, Girl Doe's account was not
12 credible?

13 A. That I did not -- I was not able to
14 identify opportunity. That in fact all of the
15 information I was able to gather had indicated no
16 opportunity.

17 Q. And when you -- what did you ask Mr. Von
18 Kohorn when you spoke to him about these allegations
19 for the first time?

20 A. If he had any -- if he had toileted, had
21 been alone with her, and he had indicated no.

22 Q. Okay. And this report to DCF that's
23 marked as Exhibit 2 states that the information
24 obtained during the course of those interviews did
25 not support the girl's claims, correct?

1 A. It did.

2 Q. And that was a conclusion you reached.

3 Did you inform -- that was the
4 conclusion you reached, correct?

5 A. Yes.

6 Q. At that time?

7 And did you inform Ann Paul and Jane
8 Anderson of your conclusions?

9 A. I kept them -- yes.

10 Q. And you also informed the parents of
11 your conclusions, correct?

12 A. Yes.

13 Q. And what did you tell the parents?

14 A. Exactly what I had just shared, that the
15 information that I was able to gather from other
16 staff members did not support that there was
17 opportunity for Eric to engage in inappropriate
18 behavior.

19 Q. And did you also tell the parents
20 that -- that Von Kohorn himself had denied that he
21 had ever been alone with their daughter or been in
22 the bathroom with their daughter?

23 A. That was part of the conversation.

24 Q. Why did you decide to make a report of
25 suspected child abuse to the State of Connecticut

1 DCF?

2 A. Because after my -- in my conversation
3 with the father on Friday, January 4th, he had
4 indicated that he would like a third party opinion,
5 and I had indicated that even though I -- at that
6 point in time did not have any suspicion, that I
7 would make the referral to DCF.

8 THE VIDEOGRAPHER: Off the record.
9 The time is 4:13.

10 (Whereupon, a recess was taken.)

11 THE VIDEOGRAPHER: This is the
12 beginning of the meeting number two. We're back on
13 the record. The time is now 4:22.

14 Q. I think before we went off the record I
15 was asking you why you made the report to DCF dated
16 January 7th, 2013, and you indicated that it was
17 because the father wanted another opinion?

18 A. Correct.

19 Q. All right. Did you ever feel you were
20 obligated to make a report?

21 A. At -- at that point in time I did not
22 feel that I had reasonable suspicion of any neglect
23 or abuse that would warrant it, but agreed since the
24 father wanted a third party, or in reference to a
25 second party, to make that referral.

1 between January 4 and January 7, 2013?

2 A. That was the weekend, so I don't believe
3 that there's anything else. I did report back to
4 the parents on the 4th.

5 Q. All right. And Exhibit 2 is the report
6 that you eventually filed on January 7th, 2013,
7 correct?

8 A. Correct.

9 Q. And at the time that you submitted this
10 report to DCF, did you believe that you had a
11 reasonable suspicion that required you to make a
12 report?

13 A. Let me see the -- this one?

14 Q. You're looking now at Exhibit 2,
15 correct?

16 A. I'm looking at Exhibit 2, and as I said
17 before, this was in response to the parents' desire
18 to have a third party, and I agreed to make the
19 referral to DCF.

20 Q. Was the only reason that you filed the
21 report that's been marked as Exhibit 2 because the
22 parents asked you to?

23 A. It was a factor. Because -- it was a
24 primary factor.

25 Q. Did you believe you were obligated to

1 make the report?

2 A. No.

3 Q. So the parents asked you to make that
4 report, and that's the -- the reason you made it?

5 A. There was discussion with the father,
6 and as I said, he wanted a third party opinion and I
7 agreed to pursue that with DCF.

8 Q. Okay. Was the sole reason that you
9 prepared the report of January 7, 2013 to DCF, was
10 the sole reason you did that because the father
11 asked you to do it?

12 A. That was the reason why I did it.

13 Q. Okay. Were there any other reasons why
14 you did it?

15 A. No.

16 Q. Okay.

17 A. Again, because I didn't suspect that
18 anything inappropriate had happened at that point.

19 Q. And was this a -- did you make a
20 telephone report or did you just file this written
21 report?

22 A. Both.

23 Q. And do you remember your conversation
24 with someone at DCF?

25 A. Details, no. I -- what's in the written

1 report would be what I shared in the telephone
2 conversation.

3 Q. I understand that -- you're -- you're
4 assuming that, correct?

5 A. I am assuming that, based upon past
6 practice.

7 Q. Do you have any memory of the
8 conversation you had with DCF --

9 A. No.

10 Q. Okay.

11 A. I don't have any memory of anything
12 varying from what I reported.

13 Q. Okay. Do you have any memory, including
14 what -- what's included in the written report, or is
15 it just you're assuming --

16 A. What I would do is write in the report
17 what I reported on the phone.

18 Q. So the information that you would report
19 on the telephone, you believe that the information
20 you reported on the telephone to DCF on January 7th,
21 2013, would be the same information that's included
22 in the written report that's marked as Exhibit 2?

23 A. That is what I believe.

24 Q. And did DCF perform any independent
25 investigation into the matter?

1 A. DCF does what -- what DCF does, and I
2 don't have -- I assume that they do an
3 investigation. They do what they need to do.

4 Q. Well, don't you think if DCF did an
5 investigation you would know about it?

6 A. Not necessarily.

7 Q. Well, were you ever aware of any
8 investigation by DCF?

9 A. No, but that's not unusual.

10 Q. Okay. Well, do you have reason to
11 believe that DCF performed an independent
12 investigation?

13 A. I have no knowledge.

14 Q. All right, that's what I'm asking.

15 (Whereupon, the One page response from
16 DCF was marked as Plaintiff's Exhibit Number 2A, and
17 the One page report from DCF Dated 1/9/13 was marked
18 as Plaintiff's Exhibit Number 3A for
19 Identification.)

20 And we marked -- I think we marked in
21 this deposition as 2A -- as 2A -- 2A was the
22 response that you received from DCF.

23 A. That they dated the 8th?

24 Q. Correct. Dated January 8th, 2013. That
25 was the response following your January 7, 2013

1 report at the parents' request, correct?

2 A. Correct.

3 Q. So it was the very next day.

4 A. That it was written.

5 Q. Right. Do you know whether between
6 January 7 and the time that that letter was sent on
7 January 8th, DCF performed any investigation --

8 A. I don't have any knowledge about D --
9 DCF's actions.

10 Q. Did anyone from DCF contact you to
11 gain -- to gather any more information?

12 A. They did not.

13 Q. And to your knowledge, was any -- any
14 other staff member -- were any other staff
15 members --

16 A. Not to my knowledge.

17 Q. You've got to let me finish.

18 To your knowledge, were any other staff
19 members at the Miller-Driscoll School contacted after
20 you made your report on January 7, 2013 about this
21 matter prior to the time on January 8th, 2013
22 Exhibit 2A was sent back to you?

23 A. Not to my knowledge.

24 Q. Thank you.

25 And what happened next in connection

1 with this?

2 A. Mom had provided some more information
3 to me.

4 Q. And when did that information come in?

5 A. I believe that that was late on
6 January 7th.

7 Q. Let me show you Exhibit 3, because
8 that's your second DCF report. That may help --
9 Does that help you answer some of these
10 questions?

11 A. Yes.

12 Q. Okay. So you have Exhibit 3 now in
13 front of you. Some time late on January 7 you
14 received a contact from Mother Doe?

15 A. Mother.

16 Q. Mother Doe?

17 A. Yes.

18 Q. Okay. And do you know what prompted her
19 to contact you?

20 A. I believe because I had indicated to the
21 father that I did not -- was not able to identify
22 opportunity.

23 Q. Okay. So you assumed that he
24 communicated that to her, and then she realized that
25 you -- perhaps you hadn't had a full understanding

1 of --

2 A. That was my assumption, yes.

3 Q. Okay. So she contacted you directly,
4 correct, by telephone?

5 A. I believe it was by phone.

6 Q. And what did she tell you?

7 A. She indicated to me that there was a day
8 that she was dropping her daughter off and the
9 daughter had to use the bathroom, and she asked
10 Mr. Eric to take her into the building so that she
11 could use the bathroom.

12 Q. Okay. And that was new information to
13 you --

14 A. That was new.

15 Q. -- as of January 7, right?

16 A. Correct.

17 Q. Okay. And was that information
18 significant to you?

19 A. Yes.

20 Q. Why?

21 A. Because it brought into question
22 opportunity.

23 Q. All right. Which was the focus of your
24 prior inquiry?

25 A. Correct.

1 Q. And what did you do once you learned
2 that information?

3 A. Talked to Eric, talked to a staff member
4 who Eric said that he had spoken to when he was
5 going into the building to bring the girl to the
6 bathroom. And based upon confirmation that Eric did
7 bring the girl into the building and brought her to
8 the bathroom, filed a follow-up DCF referral.

9 Q. Okay.

10 A. Which this one I did feel that there was
11 reason to suspect the possibility.

12 Q. And -- and this one you filed already on
13 January 8th, 2013, correct?

14 A. Correct.

15 Q. Which would have been with -- certainly
16 within 24 hours of -- of you learning this new
17 information?

18 A. Yes, and the report was within 48 hours
19 also.

20 Q. Okay. And the written report that's
21 marked now as Exhibit 3, which is your second report
22 to DCF --

23 A. Yes.

24 Q. -- as you said, this report, you -- you
25 submitted because you felt you had reasonable

1 lied?

2 A. He said that he had expressed bad
3 judgment. He didn't outright say that he had lied.

4 Q. And did he continue to insist that he
5 had told another staff member he was taking the girl
6 to the bathroom?

7 A. He did indicate that that's what he had
8 done.

9 Q. So, that -- that part of his story, he
10 stuck to that part, correct?

11 A. Correct.

12 Q. All right. After January 8, 2013, did
13 you take any further steps to investigate the
14 possibility that Von Kohorn had inappropriately
15 touched or assaulted Girl Doe?

16 A. I did not personally investigate that.

17 Q. Did others?

18 A. Not to my -- well, I made a referral to
19 DCF.

20 Q. And after you made the referral -- the
21 referral to DCF that you're talking about is the
22 report that's marked as Exhibit 3, correct?

23 A. Correct.

24 Q. And did you also make a report by
25 telephone to DCF?

1 A. Correct.

2 Q. Or was this just a written report?

3 A. It's both.

4 Q. And again, did you relay the information
5 to DCF that's contained in the written report that's
6 marked as Exhibit 3?

7 A. I did.

8 Q. And after you made that report, did
9 anyone from DCF contact you to gain any more
10 information?

11 A. They did not.

12 Q. And to your knowledge, did anyone from
13 DCF contact anyone else at -- at the Miller-Driscoll
14 School to further investigate the matters that are
15 contained in your report that's marked as Exhibit 3?

16 A. Not to my knowledge.

17 Q. And your second report to DCF, the one
18 we're talking about, was made January 8, 2013,
19 correct?

20 A. That's correct.

21 Q. And on January 9th, 2013, DCF sent you a
22 letter which is marked as Exhibit 3A, correct?

23 A. That is correct.

24 Q. And that's the very next day, correct?

25 A. That is correct.

1 role, I -- but I want to -- I want to be more narrow
2 in my question and in your answer.

3 So my question is, with respect to your
4 investigation of whether Girl Doe was sexually
5 assaulted by Von Kohorn in a Miller-Driscoll School
6 bathroom, your role in investigating that in your
7 view ended as of January 9, 2013, correct?

8 A. Yes.

9 Q. And I think you said before that after
10 January 9, 2014 you did not take any further
11 investigatory steps, correct?

12 A. Correct.

13 Q. And that's why you didn't, is because
14 you viewed your role as being completed?

15 A. Correct.

16 Q. As of January 9, 2013, however, you were
17 unsure as to whether Von Kohorn had assaulted Girl
18 Doe or not, correct?

19 A. There was no definitive conclusion,
20 correct.

21 Q. All right. Meaning maybe she had been
22 assaulted, maybe she had not been assaulted, you
23 were unable to tell?

24 A. Correct.

25 Q. Did you take any steps to ensure that

1 after January 9, 2013, Von Kohorn received any
2 increased supervision in the school?

3 A. Change of assignment, discussion with
4 supervising teachers, that there had to be --
5 reiterating the policy, formalizing the policy,
6 training on the policy regarding toileting were all
7 measures that were taken.

8 Q. Okay, I'm going to ask you about that.
9 After your conversation with Mother Doe on January 7
10 in which she supplied you the additional information
11 that's included in Exhibit 3, did you have any
12 further conversations with Mother or Father Doe
13 about the Von Kohorn incident?

14 A. I believe that I did inform -- informed
15 them that they -- that I had filed the second
16 referral.

17 Q. You believe that you had informed them
18 of that?

19 A. Yes, and I say that because I know that
20 in an interaction that I did have with the parents
21 subsequently, the mother made a statement that I
22 didn't know that, and I had informed them, and I was
23 surprised that Mom said that she didn't know that.

24 Q. Who did you inform?

25 A. I -- I thought both of them, but could

1 It would have been part of my telling them that I
2 made the referral. Why I made the referral.
3 Because the information that they gave me opened the
4 possibility of suspicion.

5 Q. Okay. So I want to make sure I
6 understand your answer. You remember letting them
7 know that you filed a second report?

8 A. Correct.

9 Q. But you don't specifically remember
10 whether you told them that Von Kohorn admitted going
11 into the bathroom with their daughter?

12 A. Correct.

13 Q. Okay. And -- okay. You mentioned that
14 there was -- one of the steps you took in response
15 to the situation was to change Von Kohorn's
16 assignment. Was that the step you described earlier
17 where you took steps to ensure that Von Kohorn no
18 longer had contact in the classroom with Girl Doe?

19 A. Correct.

20 Q. All right. Were there any other steps
21 taken involving Von Kohorn in response to the
22 information you learned on January 7, 2013 and
23 January 8, 2013?

24 A. Formalizing in written format the policy
25 for toileting, training staff on -- on that,

1 reiterating, supervising that implementation of that
2 policy.

3 Q. So in response to the situation, you
4 formalized a policy that already existed by putting
5 it in writing?

6 A. Formalized the practice, yes, by --
7 well, formalizing it.

8 Q. Okay.

9 A. It was a practice that was explicit,
10 made clear to everybody, but formalizing it in
11 writing.

12 Q. Okay. So the policy that was -- that
13 was clear to everyone existed prior to January 9,
14 2013, but it was not put in writing until after
15 January 9, 2013?

16 A. Correct.

17 Q. All right. And the staff prior to
18 January 9, 2013 had been trained about the toileting
19 policy that existed, although it was not written,
20 correct?

21 A. It was -- yes, the -- there was
22 discussions about it. Formal training where people
23 sit down, sign in and documentation, that occurred
24 after.

25 Q. Okay. But there may not have been

1 of policy and then lying about it repeatedly to you?

2 A. Consideration probably to some action.

3 Q. Like what?

4 A. I don't know. That's not -- that's not
5 something that I'm involved in.

6 Q. Did it ever occur to you after you
7 learned that Von Kohorn had taken a female preschool
8 student alone into the Miller-Driscol School
9 bathroom, and after you learned that he had lied to
10 you when he denied it and later admitted it, and
11 after you concluded that he had lied to you about
12 informing another staff member that he was doing it,
13 did it ever occur to you that -- that he could be a
14 threat to the well-being of other preschool students
15 at Miller-Driscol?

16 A. No.

17 Q. Never occurred to you?

18 A. I did not see him as a threat to the
19 students.

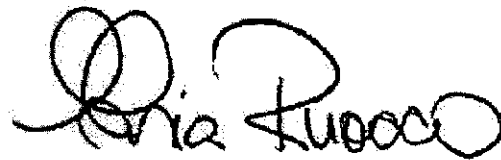
20 Q. What would need to happen for you to see
21 a staff member at Miller-Driscol as a threat to the
22 students?

23 MR. GERARDE: Objection to form.

24 A. I can think of lots of things, but
25 that's speculation as to -- lots of possibilities.

1 CERTIFICATE

2 I, GINA M. RUOCCO, a Notary Public, duly commissioned
3 and qualified in and for the State of Connecticut, do
4 hereby certify that pursuant to Agreement there came
5 before me on the 7th day of July 2016, the following
6 named person, to wit: Fred Rapczynski, who was by me
7 duly sworn to testify to the truth and nothing but the
8 truth; that he was thereupon carefully examined upon
9 his oath and his examination reduced to writing under
10 my supervision; that this deposition is a true record
11 of the testimony given by the witness. I further
12 certify that I am neither attorney nor counsel for, nor
13 related to, nor employed by any of the parties to the
14 action in which this deposition is taken, and further,
15 that I am not a relative or employee of any attorney or
16 counsel employed by the parties hereto, or financially
17 interested in this action. In WITNESS THEREOF, I have
18 hereunto set my hand this 21st day of July,
19 2016.

20
21
22


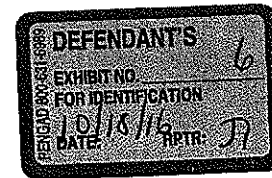
Gina M. Ruocco, LSR #516

23 Notary Public
24 My Commission expires:
August 31, 2017

25

EXHIBIT C

May 19, 2015



Kevin,

I did meet with the [REDACTED]'s in November/December, 2013 regarding two issues. The first was around [REDACTED] claiming that her mother was going to call the police on her. Ms. [REDACTED] explained that she was having difficulty with [REDACTED]'s behavior at home and that she had told [REDACTED] about the police out of her own frustrations around [REDACTED]'s behaviors. The second involved [REDACTED] alleged reports to her parents that a boy in her class had behaved inappropriately toward both her and another girl and that this boy had made some inappropriate comments to her. Specifically, [REDACTED] claimed that the boy had hit another girl with a block and that he had told [REDACTED] that she should take off her clothes and he would lay down on her.

I consulted with [REDACTED] teacher, Ms. Neville, who indicated that she had not observed the boy acting in the manner reported by [REDACTED]. In fact, Ms. Neville reported that the boy had not shown any interest in playing with [REDACTED] and that it was [REDACTED] who attempted to initiate interaction with the boy. During the following week I made a series of ten observations at random times to observe the interaction between [REDACTED] and the boy. At no time did I observe the boy being inappropriate in any way toward [REDACTED]. Rather, what I observed was consistent with what Ms. Neville had reported — that it was [REDACTED] who repeatedly attempted to interact with the boy, despite his indicating to her that he did not want to play with her.

In a follow-up meeting with Mr. and Mrs. [REDACTED] I reported what Ms. Neville had shared with me and what I had personally observed regarding the interactions between [REDACTED] and the boy. I further explored with the parents possible ways that [REDACTED] could have had access to the information about the behavior she referenced in her claims about what the boy had said. I provided the parents the contact information for a family therapist. (Mr. Martin was also involved in one of the meetings with the parents)

Fred

Fred Rapczynski, Ph.D.
Director, Wilton Preschool Services
Wilton Public Schools

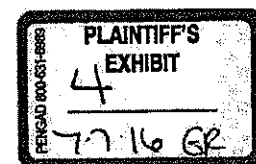


EXHIBIT D

IN THE SUPERIOR COURT
JUDICIAL DISTRICT OF STAMFORD
AT STAMFORD

GIRL DOE, PPA MOTHER DOE,
ET AL.

Plaintiffs,

-vs-

TOWN OF WILTON, ET AL.

Defendants. : OCTOBER 18, 2016

DOCKET NO. FST CV 15 5015035S

DEPOSITION
OF
FATHER DOE

Pretrial deposition taken before Jolene Isdale, Licensed Shorthand Reporter, License No. 497, and Notary Public in and for the State of Connecticut, pursuant to the Connecticut Practice Book, at Silver, Golub & Teitell, LLP, 184 Atlantic Street, Stamford, Connecticut on October 18, 2016, commencing at 12:27 p.m.

1 hear, you know, "Girl Doe just said that Eric did
2 this by wiping her too hard." What do you think?
3 I mean sort of like what does that mean? You know,
4 we were sort of immediately debating what does
5 "wiping too hard" mean?

6 Q. Okay. All right. So did you then go
7 back and have an additional conversation with Girl
8 Doe or did you just accept what was said, was told
9 to you by your wife?

10 A. I accepted what was said by my wife.

11 Q. So there was no followup -- well, let
12 me ask you, was there any followup at all, like,
13 when did it happen, how did it happen? Who else
14 was there? Any --

15 A. Not on my part.

16 Q. So what did you do next then?

17 A. Following that, I think Mother Doe and
18 I spoke about it a little bit more. This was in
19 the afternoon and then the response -- you know, it
20 was "What do we do." And I said, "Well, I have to
21 call Dr. R right away."

22 And I made several phone calls on that
23 day. There were no answers, but I remember it was
24 the day before a holiday and my assumption was that
25 nobody was answering because, you know, nobody was

1 probably there. They might have left a little
2 early that day.

3 Q. Do you have a thought in your mind as
4 to what time it was that you made the calls?

5 A. Sometime in the afternoon. It was
6 after Girl Doe had come back from school, but I
7 don't remember. But I do remember it must have
8 been late enough that I thought that it was likely
9 that they might have gone away for their vacation
10 at that point.

11 Q. And do you have a thought as to when it
12 was that Girl Doe got home that day?

13 A. No, I don't.

14 Q. Is there a typical time?

15 A. I thing -- only because I heard Mother
16 Doe say I think 12:30 was when school let out at
17 that time.

18 Q. Let's just stay with the phone calls to
19 the school. Did you make additional phone calls
20 when you didn't connect on that Friday the 21st of
21 December 2012?

22 A. Yes, right. So I made several that day
23 and then I think I called once maybe during the
24 vacation, once the weekend was over. I think
25 actually I waited maybe until after Christmas Day

1 just to see if there was maybe teacher meetings or
2 something where somebody would be in the office.

3 Q. And you didn't connect?

4 A. I did not connect.

5 Q. Were you able to leave voicemails or
6 was it --

7 A. I didn't -- I wouldn't have left
8 voicemails with something like this, except to say,
9 you know, that I need to speak with him, but I
10 don't -- I don't think I -- I don't think there was
11 a voicemail to be left at that time. Normally,
12 Patty who was his assistant is who would normally
13 answer the phone.

14 Q. All right. So you were -- when you
15 were calling, you were always calling Dr. R?

16 A. Right.

17 Q. And then whoever answers the phone on
18 his number that would be the phone -- that's the
19 phone that you called?

20 A. Right. It would always be or usually
21 it would be Patty who would answer that.

22 Q. All right. And then there came a time
23 when you did connect after New Years?

24 A. Yes.

25 Q. What do you remember about that?

1 in because he walked right to a different student?

2 A. That's correct.

3 Q. And she was then able to exit with
4 another preschool staff member?

5 A. Yes.

6 Q. I imagine it was a female?

7 A. Yes, exactly.

8 Q. So now let's go to the second bullet
9 point.

10 "When questioned by her father about
11 Mr. Eric, Girl Doe indicated she hated him. When
12 asked why, she told her father Eric had hit her in
13 the head with S's doll.

14 Do you remember that specifically, what
15 she said?

16 A. No, I think he just got this wrong.
17 But what I reported was that she had told us that
18 he had hit her friend in the head with S -- her
19 friend, S, with the doll.

20 Q. So we heard that from your wife, as
21 well?

22 A. Right.

23 Q. The issue was Eric had hit another
24 student named S in the head with that student's
25 doll?

1 A. Right.

2 Q. And Girl Doe knew about it and so she
3 was able to form a judgment about him?

4 A. Correct.

5 Q. Had you ever heard of Eric having
6 anything to do with Girl Doe prior to this event
7 that when your wife told you what she said on
8 December 21, 2012?

9 A. Let me think about this for a second.
10 No, I mean, I don't recall.

11 Q. Okay.

12 A. I mean I know that they're -- he was in
13 her class at times. I don't recall what the level
14 of interaction, if any, was prior to that.

15 Q. So in terms of when you asked her why
16 do you hate him, it had to do with something she
17 had witnessed Eric doing to some other student, but
18 she never reported anything that happened between
19 her and Eric?

20 MR. SLAGER: Objection to form.

21 You mean before this?

22 MR. GERARDE: Before this. Before
23 December 21, 2012.

24 A. You're asking if she verbalized any
25 other reasons why she wouldn't like him?

1 That was a different student --

2 A. Correct.

3 Q. -- that was hit by Eric with a doll.

4 And then he also reports that Girl Doe
5 indicated Mr. Eric wiped her too hard; is that
6 right?

7 A. Yes.

8 Q. All right. So was there anything else
9 to report at that time that you know of?

10 A. I don't think so. I mean, the
11 irritation which we saw and the report by Girl Doe
12 that Mr. Eric had wiped her too hard was the extent
13 of the knowledge we had at the time.

14 Q. All right. And do you have any reason
15 to doubt that Dr. R performed the investigation
16 that's located in the box below that in terms of
17 who he spoke to and what those people told him?

18 A. Let me just read.

19 Yes, there were no reasons -- there was
20 no reason that I wouldn't believe that this
21 occurred.

22 Q. And the last part of that is Dr. R
23 writes that "Father Doe and Mother Doe were
24 informed of the results of my investigation." Did
25 you get a call back from him about that?

1 A. Yes. I don't recall how that came,
2 whether it was a -- I think it actually a call to
3 my wife who he sort of reassured that there was no
4 -- it didn't happen and there was no opportunity
5 for it to happen.

6 Q. All right. And upon hearing that there
7 was -- the conclusion for the moment, at least, was
8 there was no opportunity for it to happen, is that
9 why additional information was then imparted to Dr.
10 R about maybe there was an opportunity?

11 A. I'm not understanding.

12 Q. I'm talking about -- if you would turn
13 the page to -- not to that exhibit, but the next
14 one. That is Exhibit 4. This is the second
15 report.

16 A. Okay.

17 Q. And it reports that Mother Doe stated
18 that Eric Von Kohorn escorted Girl Doe from her car
19 into the school building at morning drop off when
20 Girl Doe indicated that she needed the bathroom.

21 What is your understanding as to why
22 your wife made that statement?

23 A. The statement that Von Kohorn escorted.

24 Q. Girl Doe from her car into the school
25 building at morning drop off?

1 (Whereupon, at 1:36 p.m., there was a
2 break in the proceedings.)

3 (Whereupon, at 1:42 p.m. the testimony
4 resumed on the record.)

5 BY MR. GERARDE:

6 Q. So let me ask you this, Father Doe, is
7 there any memory that you have of a conversation
8 that your wife had with Dr. Smith that she didn't
9 report during her testimony?

10 A. No, I don't believe that she ever spoke
11 with him directly.

12 Q. Does that mean you believe she spoke
13 with him indirectly?

14 A. No. Poor choice of words.

15 Q. All right. So I want to go back to the
16 time when Eric was in Dawn DiNoto's class as kind
17 of a person filling in for a shortage, okay?
18 During that time -- so that time began at a point
19 shortly after you were asked by Dr. R if this would
20 be okay; is that correct?

21 A. Yes.

22 Q. And then you said yes, it would be
23 okay. At that time you told that to Dr. R?

24 A. Right.

25 Q. At any time after that, did Girl Doe

1 complain about Mr. Eric? Did she come home and say
2 Mr. Eric did this in class or did that in class?

3 A. Not that I remember.

4 Q. Or did she say anything about not
5 liking him or not wanting him around or anything
6 like that?

7 A. I don't remember. A better question --
8 well, I don't remember.

9 MR. GERARDE: Those are all my
10 questions. Thank you very much.

11 THE WITNESS: Okay.

12 MR. SLAGER: Just very quickly.

13 CROSS-EXAMINATION

14 BY MR. SLAGER:

15 Q. Did you see any behavioral changes in
16 your daughter after she reported that
17 Eric Von Kohorn assaulted her?

18 A. Yes, significant.

19 Q. Can you tell us some of those?

20 A. Sure. I think that the biggest one was
21 aggression towards my wife. Not so much towards
22 me. She -- I don't know if being bigger or a
23 father figure or what have you, but it was very,
24 very pointed towards Mother Doe. And it was also
25 very -- it was mainly on the way to school in the

1 STATE OF CONNECTICUT:
2 : SS:
3 COUNTY OF FAIRFIELD :

4 I, Jolene F. Isdale, LSR No. 497, a
5 Notary Public for the State of Connecticut, do
6 hereby certify that Father Doe was by me first duly
7 sworn, to testify the truth, the whole truth, and
8 nothing but the truth, and that the above
9 deposition was recorded stenographically pursuant
10 to Notice by me and reduced to typewriting by me.

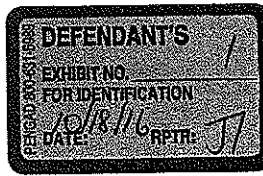
11 I FURTHER CERTIFY taken that the foregoing
12 transcript of the said deposition is a true and
13 correct transcript of the testimony given by the said
14 witness at the time and place specified hereinbefore.

15 I FURTHER CERTIFY that I am not a
16 relative or employee or attorney or counsel of any
17 of the parties, nor a relative or employee of such
18 attorney or counsel, or financially interested
19 directly or indirectly in this action.

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand and seal of office at Newtown, Connecticut,
22 this 18th day of October, 2016.

23
24 Jolene Isdale, Notary Public
25 My Notary Commission Expires:
April 30, 2019

EXHIBIT E

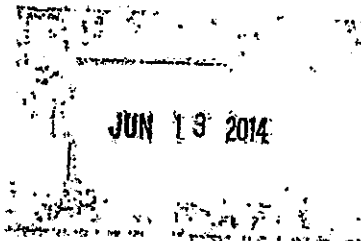


To: Jane Anderson
Director, Human Resources & General Administration
Ann Paul
Director, Special Services

From: Fred Rapczynski, Ph.D.
Director, Wilton Preschool Services

Date: January 7, 2013

RE: Mr. and Mrs. [REDACTED] Implications



Background Information and Timeline

[REDACTED] (DOB: [REDACTED]) was originally referred to Wilton Preschool Services in January, 2011 by staff at Children's Day School of Wilton (CDSW). The referral stated:

(There are) concerns about [REDACTED] sustainability in (the) classroom - sustaining interest in one activity or (in) social interactions. She tends to hop quickly from one activity to another and not sustain interest for long. Behavior can accelerate through (the) morning.

It was also noted by CDSW staff that "[REDACTED] has difficulty maintaining appropriate behaviors, struggles with cooperative play, has difficulty in groups, and struggles with awareness of others' property".

A Planning and Placement Team (PPT) meeting was held on February 7, 2012 to review the referral. Observations of [REDACTED] by staff from the Wilton Preschool Services (WPS) were recommended. These observations occurred on March 12th and March 22nd. A second PPT meeting was held on March 27th to review the results of the observations. It was determined that [REDACTED] was not eligible for special education services at that time. Parents concurred with this conclusion. Recommendations, however, were made for a Response to Intervention (RTI) plan to be implemented. This included exercises for the parents to do with [REDACTED] that targeted her toe walking; administration of behavior rating scales; administration of a sensory profile of [REDACTED] to both parents and staff at CDSW; implementation of a brushing protocol with [REDACTED] both at home and at CDSW; and consultation to the staff at CDSW by staff from WPS.

A follow-up PPT meeting was held on June 19, 2012 for the purpose of reviewing the impact of RTI strategies on [REDACTED] school functioning. The results from the behavior rating scales and the sensory profile were discussed. Based upon the information reviewed [REDACTED] was recommended for a diagnostic placement at the ESY 2012 program at WPS during the summer (July 9th thru August 10th). Parents agreed with this recommendation.

On July 20th [REDACTED] was observed by Amy Bowley, speech/language pathologist contracted by the Wilton Public Schools. A third PPT meeting was held on July 27, 2012 for the purpose of determining [REDACTED] eligibility for special education services. It was determined that [REDACTED] was eligible for special education services as a child with a Developmental Delay. It was also recommended that [REDACTED] participate in the WPS program five days a week from 9:00 am thru 11:30 am. It was also recommended that she receive social skills instruction and that a sensory diet be designed and implemented in school. Finally, a developmental history and a speech/language evaluation were recommended for [REDACTED].

On October 19, 2012 a fourth PPT meeting was held to review evaluation results. It was determined that [REDACTED] educational program would remain unchanged.

Parent Reports

In December, 2012 Mr. and Mrs. [REDACTED] informed me that they were concerned that a student in [REDACTED] class was being aggressive toward her and saying inappropriate things to her. They indicated that they believed that this was the basis for [REDACTED] recent resistance to going to school.

I questioned [REDACTED] teacher, Ms. Neville, about the interaction between [REDACTED] and this student and was assured that the child in question was not acting in an aggressive or inappropriate manner toward [REDACTED] as described by the Mr. and Mrs. [REDACTED]. In addition, I conducted several random observations of the students in Ms. Neville's classroom. At no time did I observe the interactions reported by Mr. and Mrs. [REDACTED].

On Thursday, December, 20, 2012 I met with Mr. and Mrs. [REDACTED] to report back on my findings. I suggested that consideration be given to the possibility that [REDACTED] was reluctant to leave home rather than to attend school, given that she has a younger sibling with whom Mrs. [REDACTED] spends the day. The [REDACTED] also shared that [REDACTED] behavior is difficult to manage at home. They requested information on how they could

obtain support from a private practitioner. I indicated that we would schedule a consultation on this topic with our social worker, Mr. Jim Martin.

On Thursday, January 3, 2013 Mr. [REDACTED] reported the following to me:

- On Friday, December 21, 2012, at morning drop-off, his daughter, [REDACTED] "cowered" in the car and ducked behind a seat as Mr. Eric approached. Mr. Eric, however, was walking to a car in front of the car [REDACTED] was in to assist another preschool student. Mr. [REDACTED] indicated that once Mr. Eric passed his car, [REDACTED] stopped ducking behind the seat and exited the car with another preschool staff member.
- When questioned by her father about Mr. Eric, [REDACTED] indicated that she "hated him". When asked by her father why she hated him, she told her father that Mr. Eric had hit her in the head with [REDACTED] ball.
- Over the recent school vacation, while cleaning her daughter after she had used the toilet, Mrs. [REDACTED] noticed that [REDACTED] was irritated "down there". When Mrs. [REDACTED] questioned [REDACTED] she reported that, "Mr. Eric wiped me too hard".

I told Mr. [REDACTED] that I would conduct an investigation and report back to him when that was completed.

Investigation

I subsequently interviewed the following preschool staff members: Ms. Marianne Neville, special education/early childhood teacher; Ms. Joy Blair, special education/early childhood teacher; Mr. Eric Vonkohn, preschool special education paraprofessional; and Ms. Janet McCall-Fleming, preschool special education paraprofessional.

Ms. Marianne Neville: (Ms. Neville is the special education/early childhood teacher who received occasional paraprofessional support from Mr. Vonkohn. Also, [REDACTED] is assigned to Ms. Neville's classroom.)

Ms. Neville indicated that Mr. Vonkohn was assigned to her classroom approximately 10 times this year to provide paraprofessional assistance to her. Each of these assignments lasted approximately thirty minutes. Ms. Neville indicated that at no time did Mr. Vonkohn hit [REDACTED] nor did Mr. Vonkohn ever take [REDACTED] to the bathroom. Finally, she noted that the last of these assignments occurred many weeks ago.

Mr. Eric Vonkohorn: Mr. Vonkohorn indicated his only contact with [REDACTED] has occurred at morning drop-off and between 10:00 am and 10:30 am on a few days when he provided paraprofessional support to Ms. Neville.

Morning Drop-off: Mr. Vonkohorn indicated that, after initially not having any problems exiting her parents' car at morning drop-off, prior to the December break [REDACTED] did become resistant when he was the paraprofessional opening the car door for her. He speculated that [REDACTED] may have been reacting to her dislike for his firmly stated behavior expectations for children waiting in line prior to entering the school.

Paraprofessional Support in Ms. Neville's Class: Mr. Vonkohorn reported that on a few occasions this year he provided Ms. Neville with paraprofessional support between 10:00 am and 10:30 am. Mr. Vonkohorn stated that during his time in the Ms. Neville's classroom he supported children at centers. He indicated that [REDACTED] was one of the children in the classroom at this time. He, however, stated that during these half-hour sessions he was never alone with [REDACTED] nor did he take [REDACTED] to the bathroom. He noted it has been many weeks since he provided this support to Ms. Neville's classroom.

Ms. Joy Blair: (Mr. Vonkohorn is assigned to Ms. Blair's classroom. She is his immediate supervisor.)

Ms. Blair reported that at no time this year was Mr. Vonkohorn assigned as the paraprofessional responsible for [REDACTED] or for a group of children that included [REDACTED].

Ms. Janet McCall-Fleming: (Ms. Fleming is the paraprofessional assigned to Ms. Neville's classroom)

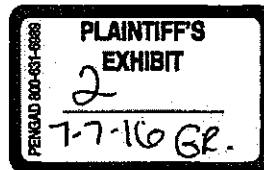
Ms. Fleming indicated that she had observed Mr. Vonkohorn interacting with children both while they waited in line prior to the start of school, as well as during the few times that he provided paraprofessional support to Ms. Neville's class. She stated that Mr. Vonkohorn conducted himself appropriately in the interactions that she observed.

On Friday, January 4th I reported to Mr. [REDACTED] that, based upon the information obtained from my interviews, Mr. Vonkohorn had limited contact with [REDACTED] and that contact always occurred in the presence of other staff. Also, there were no indications that Mr. Vonkohorn conducted himself in an inappropriate manner at any time during his interactions with [REDACTED].

Mr. [REDACTED] indicated that he would like a third party to assess [REDACTED] in order to obtain information that may facilitate understanding the current situation.

EXHIBIT F

REPORT OF SUSPECTED CHILD ABUSE/NEGLECT
DCF-138
10/01/02 (Rev)



Within forty-eight hours of making an oral report, a mandated reporter shall submit a written report (DCF-138) to the Caroline.
See the reverse side of this form for a summary of Connecticut law concerning the protection of children.

Please print or type

CHILD'S NAME: [REDACTED]	<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	AGE OR BIRTH DATE: [REDACTED]
CHILD'S ADDRESS: [REDACTED]		
NAME OF PARENTS OR OTHER PERSON RESPONSIBLE FOR CHILD'S CARE: [REDACTED]	ADDRESS: [REDACTED]	PHONE NUMBER: [REDACTED]
WHERE IS THE CHILD STAYING PRESENTLY IF NOT AT HOME?:	PHONE NUMBER:	DATE PROBLEM(S) NOTED: 01-03-2013
NAME OF CARELINE WORKER TO WHOM ORAL REPORT WAS MADE: Pablo Chumplitazi	DATE OF ORAL REPORT: 01-07-2013	DATE AND TIME OF SUSPECTED ABUSE/NEGLECT: Unknown
NAME OF SUSPECTED PERPETRATOR, IF KNOWN: Eric Vonkohorn	ADDRESS AND/OR PHONE NUMBER, IF KNOWN: 48 Harbor Road, Southport, CT	RELATIONSHIP TO CHILD: Paraprofessional

NATURE AND EXTENT OF THE CHILD'S INJURY(IES), MALTREATMENT OR NEGLECT:

INFORMATION CONCERNING ANY PREVIOUS INJURY(IES), MALTREATMENT OR NEGLECT OF THE CHILD OR HIS/HER SIBLINGS:

LIST NAMES AND AGES OF SIBLINGS, IF KNOWN:

DESCRIBE THE CIRCUMSTANCES IN WHICH THE INJURY(IES), MALTREATMENT OR NEGLECT CAME TO BE KNOWN TO THE REPORTER:

Mr. [REDACTED] initially called on January 2nd with contact being made on January 3rd. He stated that [REDACTED] had reported that Mr. Eric had hit her in the head with a doll. Mr. [REDACTED] also stated that his wife had noticed that [REDACTED] was irritable "down there" and, when queried by her mother, [REDACTED] indicated that "Mr. Eric had wiped her too hard".

WHAT ACTION, IF ANY, HAS BEEN TAKEN TO TREAT, PROVIDE SHELTER OR OTHERWISE ASSIST THE CHILD?:

I conducted an investigation which included interviews with Ms. Neville [REDACTED] teacher), Ms. Fleming (a paraprofessional in [REDACTED] classroom), Ms. Blair (Mr. Eric's supervising teacher), and Mr. Vonkohorn. The information obtained did not support [REDACTED] claims. Ms. Ann Paul (Director of Special Services - Wilton Public Schools) and Ms. Jane Anderson (Director of Human Resources - Wilton Public Schools) were consulted by me. Mr. and Mrs. [REDACTED] were informed of the results of my investigation.

REPORTER'S NAME AND AGENCY: Fred Rapczynski, Ph.D. Wilton Preschool Services	ADDRESS: 217 Wolfpit Road, Wilton, CT	PHONE NUMBER: 203-834-4909
REPORTER'S SIGNATURE: [Signature]	POSITION: Director	DATE: 01-07-2013

COPY TO DCF CARELINE, 505 Hudson Street, Hartford, CT 06106

EXHIBIT G

DCF-2122b
02/12
(Rev.)

State of Connecticut
Department of Children and Families

LETTER TO MANDATED REPORTERS

Date: 1/8/2013

Fred Rapczynski
217 Wolfpit Rd.
Winton Pre-School
Wilton, CT 06897

Re: Wilton Pre-School
[REDACTED]

Dear Fred Rapczynski:

The Child Abuse & Neglect Careline received your report on 1/8/2013. Thank you for reporting your concerns in regards to this family.

We wish to advise you of the following:

The reported information has not been accepted for a DCF response for the following reason(s):

Does Not Meet Statutory Definition of Abuse/Neglect/At Risk

As a mandated reporter I want to remind you that Connecticut General Statutes Sec. 17a-101c requires all mandated reporters submit a written report (DCF 136 "Report of Suspected Abuse/Neglect") to the Department of Children and Families within 48 hours after an oral report.

You can receive a blank DCF-136 form by calling the Careline at (800) 842-2288 or go to the DCF web site at <http://www.state.ct.us/dcf/>, click on Forms, select DCF Forms, and select the DCF-136 Child Abuse reporting form.

If you have not submitted the DCF-136 reporting form, please send by mail or fax the DCF-136 form to the Child Abuse and Neglect Careline at 505 Hudson St., Hartford, CT. 06106, fax number (860) 560-7070.

If you have submitted the DCF-136 reporting form, you have met your legal requirements as a mandated reporter. Thank you. This letter serves only as a reminder.

Please feel free to contact me if you have any questions with regards to this decision.

Sincerely,

Linda Harris-Neckles

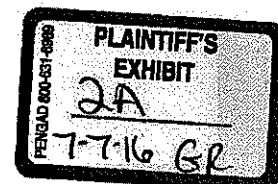
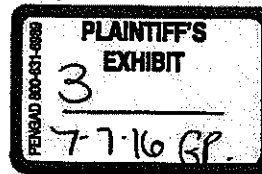


EXHIBIT H

REPORT OF SUSPECTED CHILD ABUSE/NEGLECTDCF-138
10/01/02 (Rev)

Within forty-eight hours of making an oral report, a mandated reporter shall submit a written report (DCF-138) to the Carline.
See the reverse side of this form for a summary of Connecticut law concerning the protection of children.

Please print or type

CHILD'S NAME: [REDACTED]		<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	AGE OR BIRTH DATE: [REDACTED]
CHILD'S ADDRESS: [REDACTED]			
NAME OF PARENTS OR OTHER PERSON RESPONSIBLE FOR CHILD'S CARE: [REDACTED]		ADDRESS: [REDACTED]	PHONE NUMBER: [REDACTED]
WHERE IS THE CHILD STAYING PRESENTLY IF NOT AT HOME?:		PHONE NUMBER:	DATE PROBLEM(S) NOTED: 01-07-2013
NAME OF CARELINE WORKER TO WHOM ORAL REPORT WAS MADE: Pablo Chumplitazi		DATE OF ORAL REPORT: 01-08-2013	DATE AND TIME OF SUSPECTED ABUSE/NEGLECT: Unknown
NAME OF SUSPECTED PERPETRATOR, IF KNOWN: Eric Vonkohorn		ADDRESS AND/OR PHONE NUMBER, IF KNOWN: 48 Harbor Road, Southport, CT	RELATIONSHIP TO CHILD: Paraprofessional

NATURE AND EXTENT OF THE CHILD'S INJURY(IES), MALTREATMENT OR NEGLECT:**INFORMATION CONCERNING ANY PREVIOUS INJURY(IES), MALTREATMENT OR NEGLECT OF THE CHILD OR HIS/HER SIBLINGS:****LIST NAMES AND AGES OF SIBLINGS, IF KNOWN:****DESCRIBE THE CIRCUMSTANCES IN WHICH THE INJURY(IES), MALTREATMENT OR NEGLECT CAME TO BE KNOWN TO THE REPORTER:**

Mrs. [REDACTED] stated that Mr. Eric Vonkohorn escorted [REDACTED] from her car, into the school building at morning drop-off when [REDACTED] indicated that she needed to use the bathroom. See previous report filed January 7, 2013.

WHAT ACTION, IF ANY, HAS BEEN TAKEN TO TREAT, PROVIDE SHELTER OR OTHERWISE ASSIST THE CHILD?:

I interviewed Mr. Vonkohorn. He indicated that he did escort [REDACTED] into the building to the bathroom. He stated that [REDACTED] went into the bathroom stall, while he remained outside of the stall. Mr. Vonkohorn indicated that he had told another staff member that he was taking [REDACTED] to the bathroom. This could not be collaborated.

REPORTER'S NAME AND AGENCY: Fred Rapczynski, Ph.D. Wilton Preschool Services	ADDRESS: 217 Wolfpit Road, Wilton, CT	PHONE NUMBER: 203-834-4909
REPORTER'S SIGNATURE: [Signature]	POSITION: Director	DATE: 01-08-2013

COPY TO DCF CARELINE, 505 Hudson Street, Hartford, CT 06106

EXHIBIT I

DCF-2122b
02/12
(Rev.)

State of Connecticut
Department of Children and Families

LETTER TO MANDATED REPORTERS

Date: 1/9/2013

Fred Rapczynski
217 Wolfpit Rd
Wilton Pre-School
Wilton, CT 06897

Re: Wilton Pre-School
[REDACTED]

Dear Fred Rapczynski:

The Child Abuse & Neglect Careline received your report on 1/9/2013. Thank you for reporting your concerns in regards to this family.

We wish to advise you of the following:

The reported information has not been accepted for a DCF response for the following reason(s):

Does Not Meet Statutory Definition of Abuse/Neglect/At Risk

As a mandated reporter I want to remind you that Connecticut General Statutes Sec. 17a-101c requires all mandated reporters submit a written report (DCF 136 "Report of Suspected Abuse/Neglect") to the Department of Children and Families within 48 hours after an oral report.

You can receive a blank DCF-136 form by calling the Careline at (800) 842-2288 or go to the DCF web site at <http://www.state.ct.us/dcf/>, click on Forms, select DCF Forms, and select the DCF-136 Child Abuse reporting form.

If you have not submitted the DCF-136 reporting form, please send by mail or fax the DCF-136 form to the Child Abuse and Neglect Careline at 505 Hudson St., Hartford, CT. 06106, fax number (860) 560-7070.

If you have submitted the DCF-136 reporting form, you have met your legal requirements as a mandated reporter. Thank you. This letter serves only as a reminder.

Please feel free to contact me if you have any questions with regards to this decision.

Sincerely,

Linda Harris-Neckles

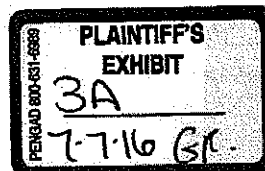


EXHIBIT J

1 DOCKET NO.: FST-CV15-5015035-S
2
3 GIRL DOE PPA MOTHER DOE AND) SUPERIOR COURT
4 FATHER DOE, MOTHER DOE,) JUDICIAL DISTRICT OF
5 INDIVIDUALLY AND FATHER DOE,) STAMFORD/NORWALK
6 INDIVIDUALLY,)
7 Plaintiffs,)
8 v.)
9 WILTON BOARD OF EDUCATION)
10 AND TOWN OF WILTON,)
11 Defendants.)
12)
13)
14)

DEPOSITION OF FRED RAPCZYNSKI

VOLUME II

15 DATE: August 9, 2016
16 TIME: 10:00 a.m.
17 HELD AT: Silver Golub & Teitell
18 184 Atlantic Street
19 By: Sarah J. Miner, LSR #238
20 Brandon Huseby Reporting & Video
21 249 Pearl Street
22 Hartford, Connecticut
23
24
25

1 school year?

2 A. Late Fall, early Winter, something like that.

3 Q. And at that time, did your direction about
4 keeping Von Kohorn separate from Girl Doe change?

5 A. It did.

6 Q. Can you tell me the circumstance that led to
7 that change?

8 A. The staffing needs of a preschool change on a
9 monthly basis. I needed to shift staff around, and I
10 contacted Mother and Father Doe and asked them if it
11 was okay with them that I assign Eric to a classroom
12 where their daughter was, but he would not have any
13 direct responsibilities or interaction with their
14 daughter.

15 Q. And -- and based on what the parents knew at
16 that time of your conversation with them, they agreed?

17 A. They did.

18 Q. And had you come into any new or additional
19 information between January 9, 2013 and the time of
20 this conversation in the middle of the school year in
21 the Fall of 2013 with the parents about what had
22 happened with Von Kohorn and Girl Doe?

23 A. Nothing other than there was no observable
24 behaviors or anything that was different on the part
25 of Girl Doe.

1 classroom in which Girl Doe -- let me withdraw the
2 question.

3 When was Von Kohorn returned to Girl Doe's
4 classroom?

5 MR. GERARDE: Objection to form.

6 THE WITNESS: I thought I mentioned, mid-year
7 the next year.

8 BY MR. SLAGER:

9 Q. Shortly after the discussion with the
10 parents?

11 A. With the parents. After I had discussed it
12 with the parents.

13 Q. Okay. And at the time that -- and that
14 decision was made by you, correct, the decision to
15 place Von Kohorn back into Girl Doe's classroom?

16 MR. GERARDE: Object to the form.

17 THE WITNESS: It wasn't a decision to place
18 him back. It was a decision to assign him to a
19 student who needed his skill-set, and that student
20 happened to be in that classroom.

21 BY MR. SLAGER:

22 Q. Okay. But you were the one who made the
23 decision to place Von Kohorn back in the same
24 classroom with Girl Doe, correct?

25 A. Yes.

1 C E R T I F I C A T E


2 I hereby certify that I am a Notary Public, in
3 and for the State of Connecticut, duly commissioned
4 and qualified to administer oaths.

5 I further certify that the deponent named in the
6 foregoing deposition was by me duly sworn and
7 thereupon testified as appears in the foregoing
8 deposition; that said deposition was taken by me
9 stenographically in the presence of counsel and
10 reduced to typewriting under my direction, and the
11 foregoing is a true and accurate transcript of the
12 testimony.

13 I further certify that I am neither of counsel
14 nor related to either of the parties to said suit, nor
15 of either counsel in said suit, nor am I interested in
16 the outcome of said cause.

17 Witness my hand and seal as Notary Public the
18 16th day of August, 2016.

19

20 
21 _____

22 Notary Public

23 My Commission Expires:

24 November 30, 2017

25

EXHIBIT K

My Commission expires:

NO: FST CV 15 5015035\$SUPERIOR COURT

GIRL DOE, PPA MOTHER DOE, ET AL:J.D. OF STAMFORD :AT STAMFORD TOWN OF WILTON,
ET AL

AFFIDAVIT OF FRED RAPCZYNSKI

I, Fred Rapczynski, having been duly sworn, do hereby depose and say:

01. I am over eighteen years of age;
02. I believe in the obligation of an oath;
03. I was the Director of Preschool Services for the Wilton Board of Education for eight years and eight months.
04. I was the Director of Preschool Services for the Wilton Board of Education during the 2012-2013 school year;
05. As such, I was familiar with the policies, procedures, and general operation of the Wilton Board of Education as they applied to my position.
06. I am familiar with the allegations from the complaint filed by the plaintiffs against the Town of Wilton and Wilton Board of Education, and have personal knowledge of the matters set forth herein;
07. There were no written ordinances, statutes, regulations, directives or policies within Wilton Board of Education which mandated the manner in which agents of the Board of Education must communicate with parents regarding investigations of child abuse.
08. There were no written ordinances, statutes, regulations, directives or policies within Wilton Board of Education which mandate the manner in which agents of the Board of Education must investigate allegations of child neglect or abuse, other than the mandates issued by the Department of Children and Families ("DCF") and the requirement that all reports made to DCF also be submitted to the Office of Special Education.
09. There were no written ordinances, statutes, regulations, directives or policies within Wilton Board of Education which mandate the manner in which I, as the Director of Preschool Services, must discipline subordinate staff members. The Office of Human Resources and Office of Special Education determined the nature of any and all discipline of preschool staff members.

10. There were no written ordinances, statutes, regulations, directives or policies within Wilton Board of Education which mandated the manner in which agents of the Board of Education must assign and organize staff members.
11. The Wilton Board of Education had internal policies and procedures for hiring new preschool paraprofessional staff members requiring that applicants be interviewed by the Director of Preschool Services, that the Director of Preschool Services must contact two references regarding the applicant's qualifications, and that the applicant must complete a period of classroom observation. The initial screening to determine whether an applicant is qualified for the position of a paraprofessional is a discretionary decision.
12. Decisions concerning staff discipline were not within the authority of the Director of Preschool Services.
13. Decisions concerning staff assignments were generally within the discretion of the Director of Preschool Services, but also fell within the authority of the Office of Special Education.
14. Whether an agent of the Board of Education had reasonable cause to suspect that child abuse or neglect had occurred was a determination within the discretion of that agent. Once a determination that an agent of the Board of Education had reasonable cause to suspect that child abuse or neglect had occurred, that agent's duty to make a report to DCF was non-discretionary.
15. At the time in question, regarding suspicion of abuse or neglect, if further inquiry was deemed appropriate, the exact nature of that inquiry was within the discretion of the agent of the Board of Education.

Dated at t) S MY) this 28th day of February 2017



Fred Rapczynski

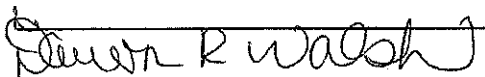
STATE OF CONNECTICUT)

COUNTY OF New Haven

Middlebury

) ss.

Subscribed and sworn to before me this 28th day of February 2017.



Dawn R. Walsh

Notary Public

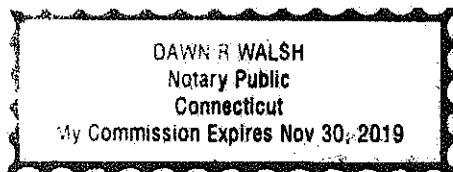
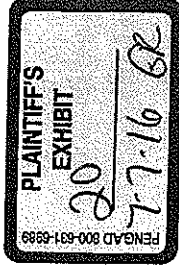


EXHIBIT L

2012-2013



WILTON PUBLIC SCHOOLS
PERFORMANCE EVALUATION -- Secretarial and Clerical Staff

NAME: ERIC VON KOTHORN POSITION: PARA PROFESSIONAL

☒ Probationary Review ☒ Annual Review Building: _____

- Rating Scale
- 1 - Does not meet Expectations
 - 2 - Sometimes Does Not Meet Expectations
 - 3 - Meets Expectations
 - 4 - Sometimes Exceeds Expectations
 - 5 - Consistently Exceeds Expectations
 - N/A - Not Applicable in this Instance

Please select the appropriate button for rating. Please provide a comment/explanation for any rating other than "Meets Expectations" (3)

ADMINISTRATIVE SUPPORT

		COMMENTS				
a. Is knowledgeable about administrative procedure, schedules and department or building priorities; keeps up with supervisor's plans and goals.	1 2 3 4 5 N/A	ERIC CREATED MANY LEARNING MATERIALS FOR HIS STUDENT.				
b. Able to follow instructions and implement modifications to any assignment as needed; able to initiate work and operate independently with little or no supervision.	1 2 3 4 5 N/A					
c. Manages office/department calendars or schedules as required; schedules appointments, meetings, and other events as directed.	1 2 3 4 5 N/A					
d. Maintains Confidentiality of all student and/or administrative information; defers to appropriate certified teacher or administrator(s) in communication of the above.	1 2 3 4 5 N/A					
e. Prepares correspondence and other written material with attention to detail, timeliness, accuracy and appropriate formatting.	1 2 3 4 5 N/A	ERIC MAINTAINED A COMMUNICATION BOOK W/ DAILY ENTRIES FOR HIS STUDENT. GOOD RELATIONSHIP W/ PARENTS.				
f. Manages office/building communications clearly and effectively; delivers messages in a timely fashion to meet needs of involved parties.	1 2 3 4 5 N/A					

g. Maintains appropriate department/building files and records; establishes filing and storage practices that support easy retrieval and access.	1	2	3	4	5	N/A
h. Maintains a neat and orderly work environment.	1	2	3	4	5	N/A
i. Orders supplies and other required materials efficiently and effectively.	1	2	3	4	5	N/A

STUDENT INTERACTIONS

COMMENTS

a. Treats all students with respect; demonstrates ability to relate to diversity within student population in all activities and interactions.	1	2	3	4	5	N/A
--	---	---	---	---	---	-----

INTERPERSONAL SKILLS

COMMENTS

a. Accepts assignments willingly.	1	2	3	4	5	N/A	GOOD ATTITUDE - FLEXIBLE
b. Works well as a member of any team; willing to collaborate on how work is to be done.	1	2	3	4	5	N/A	
c. Able to express concerns or questions about assignments to appropriate person(s).	1	2	3	4	5	N/A	
d. Is flexible and accepts direction and reorganizes priorities as needed.	1	2	3	4	5	N/A	ERIC ACCEPTS DIRECTION WELL. HE ASKS THOUGHTFUL QUESTIONS AND IS EAGER TO LEARN.
e. Models appropriate interpersonal skills and behaviors for others; is respected by peers.	1	2	3	4	5	N/A	
f. Demonstrates positive customer relations skills with all visitors, parents, and volunteers, both in person and on the phone.	1	2	3	4	5	N/A	GOOD RELATIONS W/ PARENTS.

OTHER ASSIGNMENTS AND SKILLS

COMMENTS

a. Attends department/team or other meetings as requested or directed by administrator(s).	1	2	3	4	5	N/A
--	---	---	---	---	---	-----

b. Manages time throughout the work day to complete assigned responsibilities accurately and completely.	C 1 C 2 C 3 C 4 C 5 C N/A	
c. Effectively utilizes all district technology as required for position.	C 1 C 2 C 3 C 4 C 5 C N/A	

SICK DAYS USED DURING PERFORMANCE PERIOD:

Performance Goals For Next Period

Overall Performance Assessment

Employee Comments

From - Joy Blair

Received/Signature of Employee	Signature of Administrator
<hr/>	<hr/>
Date	Date
<hr/>	<hr/>
HR Review Date	Signature of Administrator
<hr/>	<hr/>
	Date
	<hr/>

EXHIBIT M

Eric

Evaluation from Mrs. Di Noto's Class

June 13, 2008

Eric works well with all of his co-workers. He is eager to help and learn. Over the past months in his role as Para Educator he has shown growth in his ability to recognize when to be a listener and when to implement his own ideas, the importance of the teacher as the lead decision maker and the relevance of what may be minor details in a child's school day to be carefully guided. Eric is able to ask questions to gain information and apply them to new situations with success.

As a new Para to the program, Eric learned that children may see him a friend and he needs to establish a somewhat different role with them as adult friend/ assistant teacher. He has learned to be an observer at times, a facilitator to their play rather than play with them, and a model for their success.

Eric is on time and always happy and eager to begin his day. He has wonderful music abilities and brings ideas to the group in a variety of creative ways. Eric's strongest area of classroom participation is with regard to floor play/time strategies. He is able to engage children who otherwise are reluctant and shy. He encourages their language and socialization in natural ways. He has a very nice way of helping each child to feel comfortable. Eric works well 1:1 with children as well as in a group. He remains calm and re-gains control of the activity if the children are getting a little too boisterous. Eric strives each day to learn something new. He has contributed to the team.

Dawn Di Noto



EXHIBIT N

Wilton Public Schools
Wilton, Connecticut

CLASSIFIED STAFF EVALUATION FORM - WAESCA

EMPLOYEE'S NAME Eric Vonkoren LOCATION Preschool
POSITION Para EVALUATOR Rapezynski

NOTE: Rating of NOT SATISFACTORY STANDARDS requires narrative statement.
NA=Not Applicable

A. GENERAL CHARACTERISTICS.

I. Personal

	NA	Not Satisfactory*	Needs Improvement	Satisfactory	Exceeds Standards*
Cooperation				✓	
Dependability				✓	
Discretion/Tact				✓	
Flexibility				✓	
Acceptance of Criticism				✓	
Response to Change				✓	
Sense of Humor				✓	
RELATIONSHIP WITH:					
Students				✓	
Staff				✓	
Parents/Public	✓				
Ability to Communicate				✓	
Resourcefulness				✓	

II. Job Related

Accuracy				✓	
Organizational Ability				✓	
Capacity for Leadership				✓	
Initiative				✓	
Punctuality				✓	
Work Under Supervision				✓	
Anticipation/Management of Job Related Problems				✓	
Public Relations	✓				
Willingness to perform additional duties				✓	
Maintenance of Confidentiality				✓	
Quality of Work Produced				✓	
Work Under Pressure				✓	
General Efficiency				✓	
Decision Making				✓	
Attendance				✓	
Sensitivity to students & the Education Process				✓	

COMMENTS:



COMMENTS:

NOTABLE STRENGTHS/ACCOMPLISHMENTS:

Takes pride in his work and its impact
on children
Understands generalization of skills for children
Whole class instruction skills are excellent
Technology

SPECIFIC AREAS FOR IMPROVEMENT: GOAL

Recognize importance of continuity of services
for children.

Attendance

Who are up to people before mple
Mindful of responsibilities and to check in
w/ lead teacher
Understand part in big picture

Achieved goal set in Oct.

Signature of Employee



Date

6-24-11

Signature of Evaluator

Date

Appraisee's signature indicates only that the appraisee has received and reviewed this materials; it does not indicate either agreement or disagreement with its content. The appraisee may attach is/her own comments to this report.

cc: Appraiser's file
Personnel file

EXHIBIT O

2011-2012

WILTON PUBLIC SCHOOLS
PERFORMANCE EVALUATION - Paraprofessional Staff

NAME:

Eric Vonkoren

POSITION:

Para professional

☐ Probationary Review

☒ Annual Review

BUILDING:

Wilton Preschool

Rating Scale

1 - Does not meet Expectations

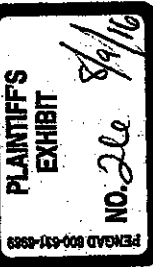
2 - Sometimes Does Not Meet Expectations

3 - Meets Expectations

4 - Sometimes Exceeds Expectations

5 - Consistently Exceeds Expectations

N/A - Not Applicable in this Instance



Please select the appropriate button for rating. Please provide a comment/explanation for any rating other than "Meets Expectations" (3)

Curriculum and Instruction

COMMENTS

a. is knowledgeable about the curriculum; keeps up to date with teacher's goals and plans.	<input type="radio"/> 1	<input type="radio"/> 2	<input checked="" type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
b. Able to follow and implement teacher's instructions regarding modifications to curriculum; able to work independently.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
c. Able to help students learn by assisting teacher as directed.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
d. Maintains confidentiality of all student information in student's IEP, program(s) or behavior plan and progress of same; defers to certified teacher in communication of the above.	<input type="radio"/> 1	<input type="radio"/> 2	<input checked="" type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
e. Factually and legibly maintains log(s) of student activity / services on a daily basis and makes available for easy retrieval as directed.	<input type="radio"/> 1	<input type="radio"/> 2	<input checked="" type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
f. Understands and works within the boundaries of I/A role.	<input type="radio"/> 1	<input type="radio"/> 2	<input checked="" type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	

STUDENT INTERACTIONS

COMMENTS

a. Treats all students with respect; demonstrates ability to relate to diversity within student population.	<input type="radio"/> 1	<input type="radio"/> 2	<input checked="" type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
b. Assists students in building self esteem through appropriate activities and interactions.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
c. Uses physical management practices safely as appropriate.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input checked="" type="radio"/> N/A	
d. Understands and implements student behavior plans in conjunction with the teacher(s).	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	

e. Effectively works one-on-one with students or in small groups as directed by the teacher.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
--	--	--

STAFF INTERACTIONS

COMMENTS

a. Accepts assignments willingly.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
b. Works well as a member of any team; willing to collaborate on how work is to be done.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
c. Able to effectively express concerns about students and/or assignments to appropriate person(s).	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
d. Is flexible and accepts direction and reorganizes priorities as needed.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
e. Models appropriate skills and behaviors for others; is respected by peers.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	

OTHER ASSIGNMENTS AND SKILLS

COMMENTS

a. Provides appropriate clerical (filing, copying) support for certified staff as needed.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
b. Chaperones Field Trips, community outings, or other student activities as requested.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input type="radio"/> 4 <input checked="" type="radio"/> 5 <input type="radio"/> N/A	
c. Provides classroom coverage for teachers as directed on a short term basis; follows plans.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
d. Attends department/team or other meetings as requested or directed by teacher/principal.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
e. Manages time throughout the work day to complete assigned responsibilities accurately and completely.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
f. Utilizes technology effectively as required, including district e-mail.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	Knowledge of technology is very good


SICK DAYS USED DURING PERFORMANCE PERIOD:

CPR Certification Current ☐ Yes ☐ No ☐ N/A First Aid Certification Current ☐ Yes ☐ No ☐ N/A PMT Certified this year ☒ Yes ☐ No ☐ N/A

Performance Goals For Next Period

Overall Performance Assessment

Employee Comments


Signature of Administrator

Date

Date

Received/Signature of Employee

HR Review Date

Signature of Administrator

Date

1/26/12

Dr. Rapczynski

A note to let you know that Eric has been doing a wonderful job facilitating play for social emotional activities with previous training from me in advance. He expands on the ideas and understands the intent of the activities. He reports to me valid and necessary information and has demonstrated high capability to maintain a group of 3-4 children (all with special needs) and facilitate a play time with a purpose.

Dawn Di Noto

EXHIBIT P

2013-2014

WILTON PUBLIC SCHOOLS

PERFORMANCE EVALUATION - Paraprofessional Staff

NAME:

Yonkoba, Eric

POSITION:

PARAPROFESSIONAL

☐ Probationary Review

☐ Annual Review

BUILDING:

WILTON PRESCHOOL

Rating Scale

1 - Does not meet Expectations

2 - Sometimes Does Not Meet Expectations

3 - Meets Expectations

4 - Sometimes Exceeds Expectations

5 - Consistently Exceeds Expectations

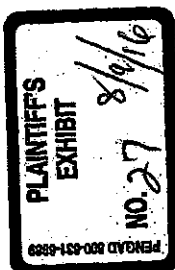
N/A - Not Applicable in this Instance

Please select the appropriate button for rating. Please provide a comment/explanation for any rating other than "Meets Expectations" (3)

Curriculum and Instruction

COMMENTS

a. is knowledgeable about the curriculum; keeps up to date with teacher's goals and plans.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	So interested in learning why the teacher approached learning in a certain way.
b. Able to follow and implement teacher's instructions regarding modifications to curriculum; able to work independently.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input checked="" type="radio"/> 5	<input type="radio"/> N/A	Excellent ability to see each child needs & modify with what was available & conventional & capable -
c. Able to help students learn by assisting teacher as directed.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	Extremely focused on best practice to follow - always asks for feedback.
d. Maintains confidentiality of all student information in student's IEP, program(s) or behavior plan and progress of same; defers to certified teacher in communication of the above.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input checked="" type="radio"/> 5	<input type="radio"/> N/A	Didn't overstep yet shared very important insights - observations.
e. Actually and legibly maintains log(s) of student activity / services on a daily basis and makes available for easy retrieval as directed.	<input type="radio"/> 1	<input type="radio"/> 2	<input checked="" type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	
f. Understands and works within the boundaries of I/A rule	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	



STUDENT INTERACTIONS

COMMENTS

a. Treats all students with respect; demonstrates ability to relate to diversity within student population.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	Knows how to shift from 1 teacher to another, from 1 student to another -
b. Assists students in building self esteem through appropriate activities and interactions.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input checked="" type="radio"/> 5	<input type="radio"/> N/A	A definite talent & virtue - great creativity & sensitivity.
c. Uses physical management practices safely as appropriate.	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input checked="" type="radio"/> 4	<input type="radio"/> 5	<input type="radio"/> N/A	Checks in with teacher appropriately
d. Understands and implements student behavior plans in conjunction with the teacher(s).	<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input checked="" type="radio"/> 5	<input type="radio"/> N/A	Very responsible - consistent!

e. Effectively works one-on-one with students or in small groups as directed by the teacher.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	Able to stay focused even if a lot going on around him.
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STAFF INTERACTIONS

COMMENTS

a. Accepts assignments willingly.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	Communicates he was ready
b. Works well as a member of any team; willing to collaborate on how work is to be done.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	He help-asks what is needed.
c. Able to effectively express concerns about students and/or assignments to appropriate person(s).	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input type="radio"/> 4 <input checked="" type="radio"/> 5 <input type="radio"/> N/A	Yes! asks to speak when adult so don't keep it professional.
d. Is flexible and accepts direction and reorganizes priorities as needed.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input checked="" type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
e. Models appropriate skills and behaviors for others; is respected by peers.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	Sometimes hesitant to be a leader when he really can.

OTHER ASSIGNMENTS AND SKILLS

COMMENTS

j. Provides appropriate clerical (filing, copying) support for certified staff as needed.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
k. Chaperones Field Trips, community outings, or other student activities as requested.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
l. Provides classroom coverage for teachers as directed on a short term basis; follows plans.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	good class group control when he reads - leads a game -
m. Attends department/team or other meetings as requested or directed by teacher/principal.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
n. Manages time throughout the work day to complete assigned responsibilities accurately and completely.	<input type="radio"/> 1 <input type="radio"/> 2 <input checked="" type="radio"/> 3 <input type="radio"/> 4 <input type="radio"/> 5 <input type="radio"/> N/A	
o. Utilizes technology effectively as required, including district e-mail.	<input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input type="radio"/> 4 <input checked="" type="radio"/> 5 <input type="radio"/> N/A	Very good with resources - tech + the curriculum.

SICK DAYS USED DURING PERFORMANCE PERIOD:

CPR Certification Current ☐ Yes ☐ No ☐ N/A First Aid Certification Current ☐ Yes ☐ No ☐ N/A PMT Certified this year ☐ Yes ☐ No ☐ N/A

Performance Goals For Next Period
More time to read to groups. lead a role play, theatrical for very shy + introverted kids - very calming. For a stressed child i'll branch out to more group work - with adult support as needed.

Overall Performance Assessment
Productive - Effective, Enthusiastic, A presentation of others. Respected of the children's individuality -

Employee Comments

Received/Signed by Employee Date


Signature of Administrator

Date

HR Review Date Signature of Administrator Date